
HJR
53

M E M O R A N D U M January 26, 1984

SUBJECT: Reapportionment of the legislature (HJR 53)

TO: Representative Mitch Abood
Chairman, House State Affairs Committee

FROM: Richard A. Bradley
Legislative Counsel

You have requested a sectional analysis of the above described resolution.

As a preliminary matter, I must advise you that a sectional analysis or summary of a resolution should not be considered an authoritative interpretation of the resolution and the resolution itself is the best statement of its contents. If you would like an interpretation of the resolution as it may apply to a particular set of circumstances, please address a specific request to this office.

To some extent, the amendments proposed in this resolution are unusual to the extent that the changes contained in the resolution may confirm existing understandings of the constitutionally required framework for the reapportionment of the Alaska legislature; the Alaska Supreme Court has been obliged to rewrite these provisions under the mandates received from the U.S. Supreme Court in a series of reapportionment decisions delivered by the Supreme Court. See, among other decisions, Baker v. Carr, 369 U.S. 186 and Reynolds v. Sims, 377 U.S. 533. To that extent, the language does not so much indicate a change in what may be expected after ratification of the proposed amendments but rather an affirmative confirmation of existing legal and constitutional reality. The Alaska Supreme Court has invited the legislature to propose conforming amendments several times in its reapportionment decisions. See Wade v. Nolan, 414 P.2d 689 (Alaska 1966), Egan v. Hammond, 502 P.2d 856 (Alaska 1972), Groh v. Egan, 526 P.2d 863 (Alaska 1974), and Carpenter v.Hammond, 667 P.2d 1204 (Alaska 1983).

In a few instances, the sponsor of the resolution has sought to adopt improvements in the constitutional framework.

I will indicate in these comments the nature of the changes proposed.

Section 1 of the resolution proposes an amendment to art. VI, section 1 of the Alaska Constitution.

The section provides that members of the house are elected from the districts established in the most recent reapportionment of the house. The material from the last sentence that is deleted has been obsolete since the first reapportionment of the House of Representatives in 1960; the material added to the end of the first sentence replaces that language.

The second full sentence of the section that is added by this resolution represents a policy choice by the sponsor; as you will recognize, a number of the members of the house are now elected from designated seats in multi- member districts. It is generally agreed that the gubernatorial power to reapportion in Alaska grants the governor the authority to establish single member districts; the governors have rearranged districts probably from the first reapportionment and the governors have reduced the number of candidates elected from a single district from the high of 14 in Anchorage after the 1960 reapportionment to the present formulation.

The proposed amendment mandates single member house districts in all cases.

Section 2 of the resolution amends art. VI, section 2 of the Alaska Constitution.

The section provides that members of the senate are elected from districts that are established under the most recent reapportionment of the senate. The material from the last sentence that is deleted has been obsolete since the first reapportionment of the Senate in 1964; the material added at the end of the first sentence replaces that language.

Just as each house member will be elected under the revised Section 1 to a single member district, each senator will be elected from a senate district that is composed of two house districts. This material represents a policy goal requested

by the sponsor of the resolution. To a some extent, I believe that this formulation represents the existing reality; the language mandates that result.

Section 3 of the resolution amends art. VI, section 3 of the Alaska Constitution.

The amendments to the first sentence of the section conform the language of the section to the understanding of the intent of the constitutional convention. The Alaska Supreme Court concluded after Governor Egan reapportioned the senate in 1964 that if the drafters of the Alaska Constitution had understood that the senate also must represent people and not geographic areas that they would have given the governor the authority to reapportion the senate. Wade v. Nolan, 414 P.2d 689 (Alaska 1966).

The change from "based upon civilian population" to "based upon the best available evidence of the resident population" results from Egan v. Hammond, 502 P.2d 856 (Alaska 1972) and Groh v. Egan, 526 P.2d 863 (Alaska 1974); the Alaska Supreme Court held that exclusion of the military from the population base without consideration whether the individual member of the military was a resident of the state was irrational.

My understanding of the reason for the deletion of the reference to the census was simply that the sponsor wanted the reapportionment board able to use the "best available evidence", whether that was the census reports or something else. As suggested, that represents a policy goal sought by the sponsor.

Note that sections 4 and 5 of art. VI are proposed for repeal. See resolution section 7.

Section 4 established an obsolete concept of reapportionment based on "equal proportions." Section 5 permitted the combining of house districts in certain instances. Both concepts have been obsolete since the original U. S. Supreme Court decisions mandating "one person, one vote."

Section 4 of the resolution amends art. VI, section 6 of the Alaska Constitution.

The amendment makes clear in the first sentence that it applies to senate as well as house reapportionment.

The third sentence is deleted from the section but note that its content is carried into the new subsec. (b) in Section 5 of the resolution.

Section 5 of the resolution amends art. VI, section 6 of the Alaska Constitution by adding a new subsection.

It provides that each "election district" for the election of house members and each senate district shall each contain "a population as nearly equal as possible." The last two sentences state a mathematical requirement for deviations from the ideal district population.

Note that section 7 of art. VI has been repealed. See resolution section 7.

Section 7 dealt with limitations on the modification of senate district boundaries. It has been obsolete since 1964.

Section 6 of the resolution amends art. VI, section 8 of the Alaska Constitution.

The amendment recognizes that that there have not been regional senate districts since the 1964 reapportionment.

As noted above, secs. 4, 5, and 7 of art. VI are proposed for repeal in section 7 of the resolution.

Also proposed for repeal in section 7 is art. XIV of the Alaska Constitution. Art. XIV establishes a reapportionment schedule: the listing of the various house and senate districts and their boundaries.

It should be understood that the material contained within art. XIV will continue to be necessary but since it is not truly constitutional, it will become a footnote to the provisions of art. VI, presumably secs. 1 and 2.

It is not constitutional in the sense that its provisions will necessarily receive amendment in each reapportionment but will take effect because of the reapportionment proclamation of the governor and not because they have been adopted in a constitutional amendment proposed by the legislature and ratified by the qualified voters of the state.

Section 8 of the resolution is standard language directing the election officers to put the resolution before the qualified voters of the state at the next general election in conformity with the constitution and election laws.

The amendments would become a part of the constitution 30 days after the certification of the election results by the lieutenant governor. See art. XIII, sec. 1. The implementation of the provisions would not be called for until after the reporting of the next decennial census, after 1990.

If I may be of further assistance, please advise.

RAB:ojb
J2/080




Superior Court
State of Alaska

THIRD JUDICIAL DISTRICT
303 K STREET
ANCHORAGE, ALASKA
99501

CHAMBERS OF
MILTON M. SOUTER, JUDGE

November 14, 1983

Honorable Terry Martin
Chairman, Labor and Commerce Committee
3960 Reka Drive-B6
Anchorage, Alaska 99504

Dear Representative Martin:

This morning you delivered to my office a three page letter together with enclosures, pertaining to the on-going reapportionment proceedings. It appears to me that you are perhaps laboring under a misconception of those proceedings at present, so I feel it appropriate to take this opportunity to present a brief explanation.

A newly constituted reapportionment board is presently handling the reapportionment proceedings. Accordingly, nothing is occurring in court with respect to those proceedings at this time. Further, it is unlikely that anything further will occur in court until the reapportionment board has made its recommendations to Governor Sheffield and he has issued an amended reapportionment order. Therefore, it would have been better for your purposes if you had delivered your letter and enclosures to the reapportionment board, rather than to me.

Because you are not a party to the reapportionment court case, you do not have the right to file with the court any written arguments, suggestions or comments regarding the

case. This is the rule pertaining to non-parties in all court cases. Accordingly, I am returning to you the letter and enclosures which you delivered to me, since it is not proper for me to consider items from a non-party. It might be possible for you to become a party to the case or to submit argument, etc., as an "amicus curiae", but you should consult with a lawyer to determine whether and how to do this.

Despite the formal tone of this letter, I wish to assure you that I appreciate the interest which you have shown in this matter, and I am sure that the active participants in the reapportionment proceedings will wish to consider your views. I have therefore instructed my secretary to send a xerox copy of your letter and enclosures to the formal parties in the reapportionment court case.

Sincerely yours,

Milton M. Souter

MMS/pb

cc: Holli Ploog w/enclosures
701 West 58th Ave., Suite F
Anchorage, AK 99503

Timothy A. McKeever w/enclosures
2550 Denali Street, Suite 700
Anchorage, AK 99503

Jonathan B. Rubini
Assistant Attorney General
Pouch K
Juneau, AK 99811

Court file

Alaska State Legislature

REPRESENTATIVE
TERRY MARTIN
DISTRICT 8
CHAIRMAN—LABOR AND COMMERCE COMMITTEE
PHONE 465-3873

3960 REKA DRIVE—B6
ANCHORAGE, AK 99504
PHONE 333-6990

DURING LEGISLATURE
POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE 465-3784

November 11, 1983

Judge Milton Souter
Superior Court, Third District
303 "K" Street
Anchorage, Alaska 99501

Dear Judge Souter:

Alaska's history of apportionment and reapportionment has been one of much concern by all citizens, for this state of just twenty-five years belonging as an equal partner in the United States. Our youth as a state has its benefits, in that we have learned by the mistakes of other states and took advantage of major U.S. Supreme Courts decisions pertaining to the equality of each citizen in equal representation. This is verified in Article IV Sections 4 and 6. Both of these sections are based on the decennial census of the United States [Art. IV. Sec. 3]

Sec.4. Reapportionment shall be by the methods of equal proportion, except that each election district having major fraction of the quotient obtained by dividing total civilian population by forty shall have one representative.

Sec. 6. The governor may further redistrict by changing the size and area of election districts, subject to the limitations of this article. Each new district so created shall be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area. Each shall contain a population at least equal to the quotient obtained by dividing the total civilian population by forty. Consideration may be given to local government boundaries. Drainage and other features shall be used in describing boundaries whenever possible.

As you are aware the "forty" formula was most distorted in the 1972 and 1974 reapportionments. In the 1980 reapportionment, the committee achieved a much more desirable equal apportionment, but even this missed the mark with some representative districts being as much as 5.8% above the quotient or 4.18% below the quotient, thus a difference of almost 10% inequality of representation, from an average population of 9,228 per house member of the 1980 census of 400,481 people. This excludes transient military population. [See attached "State Government News" - Oct. 1981]

Since the Federal Census of 1980, every state has gone through the traumatic reapportionment mandated. It can be concluded that most states tried to adhere to the U.S. Supreme Court's requirements for "one person, one vote." Many have less than 1% difference. In some states the governors took this criterion so serious that they vetoed badly drawn plans of their legislature - even against their own party. In one case, Colorado, the governor vetoed the new reapportionment plan although the largest and smallest districts had a population difference of only 41 people. In Texas, Supreme Court ruled the House plan split counties unnecessarily in violation of the state constitution. Some states use the Federal Census as their base, some use less of that figure and others do not use the decennial census at all.

In Alaska, it is clearly the intent of the Constitution [Art. VI. Sec. 3] to use the decennial census of the United States. While the intent of this was good - since in the territory era we had no better way of counting people nor the ability to pay for such an undertaking - this method is extremely limiting today. The Constitution, as I interpret it, does not limit the state to outdated statistics when reapportioning between decennial periods. If this is not true, then we are severly limited in complying to the "one person, one vote" equality concept and the current exercise of the Reapportionment Board is diminished in value. Another approach should be considered that is much more reliable and annually takes into consideration the annual fluctuation of population, also. The true military resident count should be added to the Constitution.

I would like to bring to your attention the potential use of statistics completed by the Department of Revenues for recipients of the Permanent Fund dividends. If we are going to reapportion it seems only logical and certainly within the constitution concept of "one person, one vote" equality to use the best census available. While the Federal census of 1980 shows 400,000 plus residents, the Permanent Fund dividends of 1982 has verified 474,000 plus residents. Thus, in the current scheme of reapportionment, almost twenty percent of the population will not be considered for the quotient obtained divided by forty. Alaska can be quite unique in its abilities of combining this new program and using its statistic to allow other departments, commissions, and legislature to share the information of exactly where the people are.

Combining the total recipients of 1982 Permanent Fund checks with the U.S. Post Office zip code numbers makes it easy for any reapportionment committee to combine an equal number for each political districts. [See attached letter and stats - Nov 3, 1983] This obviously is a far superior method of census counting than any yet devised. We know these citizens have been checked for residency and volunteer the information of each household with no additional cost to the state. A most unique aspect in this program is the pre-counting of persons. It allows a pregnant woman of six month pre-birth to count the child to be and receive a dividend check.

The 1983 P.F. statistics can be readily obtained if you approve of the concept for Governor Sheffield's Reapportionment Board. This applied to the latest zip codes of each city, municipality and village will help decrease conflicting reports from various state agencies and local governments as to how many people live where.

Judge Souter, I appeal to you to ask the present Board appointed by Governor Sheffield to reapportion the whole State of Alaska and to use the very latest and factual statistics available - namely the 1983 Permanent Fund Dividend recipients.

If you would like to explore this concept with me personally or need additional information, I will make myself available at your convenience.

Thank you very much for your consideration of my request. I look forward to hearing from you soon.

Most sincerely,

Terry Martin

Representative Terry Martin

TM:jl

Enclosures:

P.S. Currently I am having the Legislative legal service research for legislation to be introduced in January 1984 to allow for the above to be voted on in the 1984 November election and to include a clause to specifically count military residents for purposes of political reapportionment.

cc: Governor William Sheffield
Attorney General's Office
Senate President Jay Kerttula
Speaker Joe Hayes
Supreme Court Chief Justice Edward Burke

STATE OF ALASKA

OFFICE OF THE GOVERNOR
JUNEAU

BILL SHEFFIELD
GOVERNOR

# NEWS RELEASE

FOR INFORMATION CONTACT:
Pete Spivey
Press Secretary

John Greely
Deputy Press Secretary
Office of the Governor
Pouch A, Juneau, AK 99811

Bus. Phone: (907) 465-3500

SHEFFIELD APPOINTS FIVE MEMBER STATE REAPPORTIONMENT BOARD
OCTOBER 20, 1983
NO. 83-172

FOR IMMEDIATE RELEASE

ANCHORAGE -- Governor Bill Sheffield today announced the appointment of a five-member State Reapportionment Board, in compliance with an order issued by Superior Court Judge Milton Souter on October 12.

Appointed were: Joseph H. McKinnon, an Anchorage lawyer and former member of the Legislature; Felix Toner, a Juneau engineer with previous Reapportionment Board experience who also served on the Juneau Assembly; Mary Nordale, a Fairbanks lawyer; Richard Borer, a Cordova hotel owner and former member of the Legislature; and Willie Hensley of Anchorage, a former Legislator who now is President of NANA Development Corporation and Chairman of United Bank Alaska.

Toner, McKinnon, Nordale and Hensley are Democrats. Borer is a Republican.

The board is charged with presenting the Governor with a proposal to amend a final Proclamation of Reapportionment approved by former Governor Hammond. The Alaska Supreme Court ordered the plan revised last July 23 and returned the case to the Superior Court. In his order last week, Judge Souter ordered the reapportionment plan amended so that the city of Cordova is "placed in a contiguous, compact and relatively integrated socio-economic election district...."

-MORE-

Cordova lies in House District 2, the so-called "Iceworm District." The district currently stretches from Prince William Sound to the state's southernmost border, excluding the largest towns and cities of Southeast Alaska.

The board members will convene in Juneau October 26, and will meet with Department of Law representatives to review their authority and discuss administrative matters before beginning their deliberations.

The proposed amended plan is to be delivered to Sheffield by January 3. The Governor is to then issue the revised final plan by February 3.

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Alaska State Legislature

REPRESENTATIVE
TERRY MARTIN
DISTRICT 8
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November 11, 1983

Judge Milton Souter
Superior Court, Third District
303 "K" Street
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Dear Judge Souter:

Alaska's history of apportionment and reapportionment has been one of much concern by all citizens, for this state of just twenty-five years belonging as an equal partner in the United States. Our youth as a state has its benefits, in that we have learned by the mistakes of other states and took advantage of major U.S. Supreme Courts decisions pertaining to the equality of each citizen in equal representation. This is verified in Article IV Sections 4 and 6. Both of these sections are based on the decennial census of the United States [Art. IV. Sec. 3]

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Sec. 6. The governor may further redistrict by changing the size and area of election districts, subject to the limitations of this article. Each new district so created shall be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area. Each shall contain a population at least equal to the quotient obtained by dividing the total civilian population by forty. Consideration may be given to local government boundaries. Drainage and other features shall be used in describing boundaries whenever possible.

As you are aware the "forty" formula was most distorted in the 1972 and 1974 reapportionments. In the 1980 reapportionment, the committee achieved a much more desirable equal apportionment, but even this missed the mark with some representative districts being as much as 5.8% above the quotient or 4.18% below the quotient, thus a difference of almost 10% inequality of representation, from an average population of 9.228 per house member of the 1980 census of 400,481 people. This excludes transient military population. [See attached "State Government News" - Oct. 1981]

Since the Federal Census of 1980, every state has gone through the traumatic reapportionment mandated. It can be concluded that most states tried to adhere to the U.S. Supreme Court's requirements for "one person, one vote." Many have less than 1% difference. In some states the governors took this criterion so serious that they vetoed badly drawn plans of their legislature - even against their own party. In one case, Colorado, the governor vetoed the new reapportionment plan although the largest and smallest districts had a population difference of only 41 people. In Texas, Supreme Court ruled the House plan split counties unnecessarily in violation of the state constitution. Some states use the Federal Census as their base, some use less of that figure and others do not use the decennial census at all.

In Alaska, it is clearly the intent of the Constitution [Art. VI. Sec. 3] to use the decennial census of the United States. While the intent of this was good - since in the territory era we had no better way of counting people nor the ability to pay for such an undertaking - this method is extremely limiting today. The Constitution, as I interpret it, does not limit the state to outdated statistics when reapportioning between decennial periods. If this is not true, then we are severly limited in complying to the "one person, one vote" equality concept and the current exercise of the Reapportionment Board is diminished in value. Another approach should be considered that is much more reliable and annually takes into consideration the annual fluctuation of population, also. The true military resident count should be added to the Constitution.

I would like to bring to your attention the potential use of statistics completed by the Department of Revenues for recipients of the Permanent Fund dividends. If we are going to reapportion it seems only logical and certainly within the constitution concept of "one person, one vote" equality to use the best census available. While the Federal census of 1980 shows 400,000 plus residents, the Permanent Fund dividends of 1982 has verified 474,000 plus residents. Thus, in the current scheme of reapportionment, almost twenty percent of the population will not be considered for the quotient obtained divided by forty. Alaska can be quite unique in its abilities of combining this new program and using its statistic to allow other departments, commissions, and legislature to share the information of exactly where the people are.

Combining the total recipients of 1982 Permanent Fund checks with the U.S. Post Office zip code numbers makes it easy for any reapportionment committee to combine an equal number for each political districts. [See attached letter and stats - Nov 3, 1983] This obviously is a far superior method of census counting than any yet devised. We know these citizens have been checked for residency and volunteer the information of each household with no additional cost to the state. A most unique aspect in this program is the pre-counting of persons. It allows a pregnant woman of six month pre-birth to count the child to be and receive a dividend check.

The 1983 P.F. statistics can be readily obtained if you approve of the concept for Governor Sheffield's Reapportionment Board. This applied to the latest zip codes of each city, municipality and village will help decrease conflicting reports from various state agencies and local governments as to how many people live where.

Judge Souter, I appeal to you to ask the present Board appointed by Governor Sheffield to reapportion the whole State of Alaska and to use the very latest and factual statistics available - namely the 1983 Permanent Fund Dividend recipients.

If you would like to explore this concept with me personally or need additional information, I will make myself available at your convenience.

Thank you very much for your consideration of my request. I look forward to hearing from you soon.

Most sincerely,

Terry Martin

Representative Terry Martin

TM:jl

Enclosures:

P.S. Currently I am having the Legislative legal service research for legislation to be introduced in January 1984 to allow for the above to be voted on in the 1984 November election and to include a clause to specifically count military residents for purposes of political reapportionment.

cc: Governor William Sheffield
Attorney General's Office
Senate President Jay Kerttula
Speaker Joe Hayes
Supreme Court Chief Justice Edward Burke

# Alaska State Legislature

## House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811


November 14, 1983

FOR IMMEDIATE RELEASE
CONTACT: Rep. Terry Martin
333-6990

REP. TERRY MARTIN SAYS PERMANENT FUND STATISTICS SHOULD BE USED FOR REAPPORTIONMENT

ANCHORAGE - Rep. Terry Martin is asking the Superior Court to have the Sheffield administration use population statistics compiled from the Permanent Fund Dividend program as a basis for reapportioning the state's election districts.

In a letter sent to Superior Court Judge Milton Souter on Monday, Martin said the Permanent Fund Dividend program's statistics were the most current and accurate population figures available for reapportionment. Martin also asked that the entire state be reapportioned using these statistics.

"While the federal census of 1980 shows 400,000 plus residents, the Permanent Fund dividends of 1982 has verified 474,000 plus residents," Martin said. "Thus, in the current scheme of reapportionment, almost 20 percent of the population will not be considered" in the pending reapportionment process.

Martin, R-Anchorage, said because the Permanent Fund Dividend applications have already been thoroughly checked for accuracy, the program offers a unique and inexpensive means of determining a current population count.

"This obviously is a far superior method of census counting than any yet devised," Martin said. "We know these citizens have been checked for residency and volunteer the information of each household with no additional cost to the state."

Martin added, "A most unique aspect in this program is the pre-counting of persons. It allows a pregnant woman of six month pre-birth to count the child to be and receive a dividend check."

Martin said equitable election districts could be designed by using the program statistics and postal zip codes.

"Judge Souter, I appeal to you to ask the present (reapportionment) board appointed by Gov. Sheffield to reapportion the whole State of Alaska and to use the very latest and factual statistics available - namely the 1983 Permanent Fund Dividend recipients," Martin concluded in the letter.

Martin said he is also having the Legislative legal service conduct research on his behalf for legislation which would allow Martin's recommendation to be voted on in the 1984 general election, and also include a clause which would specifically count military residents for political reapportionment. Martin intends to introduce the legislation at the beginning of the upcoming session in January 1984.

# # # # # #

BILL SHEFFIELD
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

November 18, 1983

for 1:30 meeting:
get there early &
let Willie Hensley
know you're there —
he'll get you on early.

~~Hensley will be back~~ Shill try to get back to me today or first thing tomorrow

Terry- afternoon ~~Monday~~
~~Or evening meeting~~
Class at 3:00, so before that.

Dear Legislator:

William Hensley, Chairman of the Reapportionment Board, requested that I provide all incumbent legislators with the various proposed plans adopted by the 1983 Reapportionment Board. As you know, the Alaska Supreme Court ruled that the 1981 Plan improperly included the Cordova area within House District 2. With the advise of the Reapportionment Board, Governor Sheffield must therefore formulate amendments to the 1981 Plan which relocates the Cordova area and which satisfies the constitutional guarantee of equal representation.

The Reapportionment Board recently concluded a series of meetings in Juneau, during which the Board drafted two proposed plans for amending the 1981 Plan. Included in the packet is a news release which fully explains the proposed changes. The Board has not as yet had an opportunity to address whether changes in either Senate districts or Senate terms is advisable.

The news release also describes the public hearings scheduled by the Board. You are, of course, invited to attend any of the scheduled public hearings. If you would like to offer comments to the Board, but are unable to attend a scheduled public hearing, you may submit written testimony. All written testimony should be mailed by December 5, 1983, to:

Reapportionment Board
Pouch A
Juneau, AK 99811

If you need any additional information please feel free to contact the Reapportionment staff at 465-3538.

Sincerely,

Dana LaTour

Dana LaTour
Staff Assistant

Enclosures

Alaska State Legislature

REPRESENTATIVE
TERRY MARTIN
DISTRICT 8
CHAIRMAN—LABOR AND COMMERCE COMMITTEE
PHONE 465-3873




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DURING LEGISLATURE
POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE 465-3784

December 29, 1983

Mr. Willie Hensley
c/o Reapportionment Board
Pouch A
Juneau, AK 99811

Attention: Karen Rehfeld

Dear Mr. Hensley:

A copy of the Board's most recent reapportionment plan (Dec.19) was most appreciated and I take this opportunity to express my concerns.

Because of past actions of the 1981 Reapportionment Board, Judge Souter's very restrictive directions, Governor Sheffield's concerns that all persons be counted, outdated constitution wording and fast growing, population, your Board faces an impossible task and is severely hampered in doing a responsible and constitutionally sound job of reapportionment. The previous Board's action seriously discriminated against the majority of Alaska's true population. All plans thus far proposed by your Board only exasperate the problem of meeting the superior requirement of one person equals one vote.

In order to save excessive court costs in the immediate future, I believe it imperative that the Board request Gov. Sheffield to ask Judge Souter and/or the Alaska Supreme Court to lift the current restrictions imposed and allow a statewide reapportionment that will properly use Federal census figures of 1980 (if we must be limited to this) and insure equal and fair representation for all Alaskans.

Admittedly this may delay reapportionment taking place until after the 1984 election but in the long run, without broader direction for the Board and considering the court's previous recommended changes in Alaska's constitution, all your current efforts seem futile.

Please also consider the following points of views on the past and present reapportionment plans.

Yours very truly,

Terry Martin

Rep. Terry Martin

cc: Board Members
Executive Director
Gov. Wm. Sheffield
Speaker of House
Senate President
Media
Attorney General's Office

In the wake of the Carpenter v. Hammond decision it seems that the current Board has strayed from the controlling consideration in reapportionment - one man, one vote. The 1980 Board strove to keep combined variances between any two districts below ten per cent. This ten per cent total population variance (from highest to lowest) seems to be the rule of thumb. In Carpenter v. Hammond, Judge Moore required the adjustment of district boundaries in Southwest Alaska to reduce the combined population variance between Districts 25 and 26 (11.5%).

The current Board appointed by Governor Sheffield, seems to weigh the socio-economic guideline (brought out in the Carpenter Case) equal to if not more important than equally populated districts. In the original reapportionment plan (June 10, 1981) there was only one variance between districts greater than ten per cent and Judge Moore required adjustment of those districts. In the plan adopted by the current Board on Dec. 19, 1983 (Plan 2) there are 28 cases where combined variances between districts exceed ten per cent. (TABLE X) Granted, there may be uncontrollable factors involved, but to leap from 1 to 28 seems excessive.

In examining past Supreme Court decisions the basis for apportionment is clearly stated. The opinion of the U.S. Supreme Court in Wesberry v. Sanders 376 U.S. 1 at 180 was: "While it may not be possible to draw congressional districts with mathematical precision, that is no excuse for ignoring our Constitution's plain objective of making equal representation for equal numbers of people the fundamental goal for the House of Representatives." And although the previous quote refers specifically to Federal Representatives, the same applies to state legislatures as noted in the opinion of the Alaska Supreme Court in Egan v. Hammond, Alaska 502P2d 856 at 875: "Under the Equal Protection & Supremacy Clause of the Constitution of the United States of America, the constitutional right to vote of every citizen of Alaska is protected against impermissible dilutions and impairments flowring from malapportionment of either the House of Representatives or the Senate."

Some would argue that the Alaska State Constitution provides guidelines other than population alone to be used for reapportionment. While continuity, compactness, and socio-economic integration can be considered, they are not to be the controlling factors. This point is in the U.S. Supreme Courts opinion in Reynolds v. Sims 377 U.S. 533 at 579-580: "But neither history alone, nor economic or other sorts of group interests, are permissible factors in attempting to justify disparities from population - based representation." In the same opinion on page 581 the Justices noted, "But if, even as a result of a clearly rational state policy of according some legislative representation to political subdivisions, population is submerged as the controlling consideration in the apportionment of seats in the particular legislative body, then the right of all the State's citizens to cast an effective and adequately weighted vote would be unconstitutionally impaired."

In utilizing the variance concept to achieve equitable representation, there must be an underlying assumption of randomness in those variances. If one region is biased with non-random variations then the cumulative effect of those variations can be substantial. Southeast Alaska is a good example of these non-random variances and their effect. With 5 of 6 S.E. districts having significant negative variations, the average negative variation for all 6 seats is 3.5%.

While statistics are useful aids for comparison, they can also be quite misleading. In Reapportionment Plan 2 (Dec 19,1983) the average population variance in Southeast from the ideal House seat size is -3.5%. The variance for the 17 Anchorage seats from the ideal is +1.8%. (TABLE I)

Neither variance sounds excessive, but when actual numbers from Southeast and Anchorage are compared, the problem becomes apparent. The total population for six Southeast House seats is 53308 or 8885 per seat. Likewise, Anchorage's population is 159,466 for 17 seats or 9380 per seat. Direct comparison shows a difference of 495 people per average seat size. (TABLE I)

While individual variances may seem reasonable, the cumulative effect is not. Essentially, Anchorage is under represented by 495 people per seat. For 17 Anchorage seats that works out to 8415 people, which is a significant number when compared with the Southeast seat size of 8885 and the ideal seat size of 9211. Anchorage is under represented by one seat. (TABLE II)

When comparing the rest of Alaska (excluding Anchorage) with Southeast similar problems occur. There is a 271 person per seat difference between Southeast and the rest of Alaska. This works out to a cumulative inequity of 4607 people between the two regions. The total overpopulation for the whole state vs. Southeast is 8415 (Anchorage) + 4607 (Remaining Alaska) or 13022. This emphasizes that not only is most of Alaska under represented, but that Southeast Alaska is over represented when compared with the rest of the state. (TABLE III)

As noted in the order of the Alaska Supreme Court in Egan vs. Hammond, Alaska, 502P2d 856 at 875: "Under the Equal Protection and Supremacy Clause of the Constitution of the United States of America, the constitutional right to vote of every citizen of Alaska is protected against impermissible dilutions and impairments flowing from malapportionment of either the House of Representatives or the Senate."

While there have been instances where Courts have upheld reapportionment plans with variances greater than ten per cent, there are usually specific reasons for this. In Abate v. Mundt, 403 U.S. 182, the U.S. Supreme Court upheld an 11.9% total variance due to historical considerations and the fact that there were no built in bases which favored a certain area or interest. Just the opposite is true in Alaska. The variances in the reapportionment plan are strongly biased in favor of Southeast Alaska and against the Anchorage area.

In Kilgarlin v. Hill, 386 U.S. 120, the U.S. Supreme Court set a precedent in allowing a combined variance of 26.48%. They reasoned that the under populated area had a high growth rate and would soon have the population to eliminate the variance. In examining Alaska's reapportionment under this growth principle, inequities surface once again. Those areas growing fastest, which would soon justify more representation are the regions with the highest variances above the average. North Kenai - South Anchorage (+4.0%), Campbell-Hillside (+4.4%), Turnagain-Sandlake (+4.0%), Kenai-Cook Inlet (+4.2%) are all rapidly expanding, yet they all have large positive variances. It seems the Board could at least consider growth areas and rather than becoming more under represented, a region could grow into fair representation.

The major problem with all the reapportionment plans is the unequal representation afforded certain regions of the state. The 1981 Board made some mistakes which when coupled with mandates from the Carpenter v Hammond case further exacerbate the problem.

Throughout the reapportionment process the Anchorage area has been allocated more people and the Southeast region has been allocated less. This is specifically due to three things; the movement of Cordova out of Southeast, the alternative treatment of the military, and the 1980 census revisions. All of these further the inequity of representation between the two regions.

The 1981 Board received its official census data on March 12, 1981. The first Draft of the reapportionment plan, issued May 5, 1981, did not include an April Census revision which added 1414 people to Eagle River, 50 to the Mat Su Borough and subtracted 94 from the S.E. Fairbanks area. The Board still did not consider the corrections when it made revisions and issued its final plan on May 22, 1981.

Reasons for not using the updated census data are unknown. Fortunately, the current board appointed by Gov. Sheffield has utilized these corrections in at least one of its reapportionment plans (2). The reasons for still considering Plan I, which doesn't use corrected data, are unclear. The 1414 people in Eagle River need to be represented. They can't be just overlooked.

The 1981 Board utilized a plan to consider a certain proportion of military personnel as residents for reapportionment purposes. In the original reapportionment plan (June 10,1981, resident military personnel were determined at only 7 major military installations (Elmendorf, Eilson, Ft. Wainwright, Ft. Richardson, Ft. Greeley, Adak Naval Base, and the Kodiak Coast Guard Station). This resulted in 31,363.8 non-resident military personnel. Since all military were included in Alaska's population during the 1980 Federal census, these 31,363.8 were subtracted from the census figures to arrive at Alaska's resident population for reapportionment (400,481-31,353,7 = 369.117.2).

Problems arise in the application of the plan. Why did the 1981 Board only consider the seven major military installations? They didn't include approximately 2491 other military personnel throughout the state. Of the 2491 only 424 were considered residents. Therefore 2067 more people should be subtracted from the total state population to arrive at the base figure for reapportionment.

Fortunately, the current Board has considered these additional personnel in formulating both of their reapportionment plans (Plan 1 and Plan 2). The only criticism to be levied upon the current Board is their lack of public disclosure. No where do they explain this exclusion of the additional 2067 non-resident military personnel in the current plans (Plan 1 & 2). The population figures change in many districts without any explanations or indications of change.

In the Carpenter v Hammond case the Alaska Supreme Court decided that Cordova was not similar enough in socio-economic terms to be included in the Iceworm District. Their mandate was to take Cordova out of the Southeast district and move it elsewhere. This shift reduced Southeast's population base by 2241.

Also, in Carpenter v Hammond, Judge Souter,, who has jurisdiction in the case, ordered that the reapportionment be done consistent with federal and state constitutional requirements of equal representation, but with the fewest possible changes to the original plan (June 10,1981). All of these guidelines make the current Boards reapportionment job extremely difficult.

To tie in all three problem areas it must be noted again that throughout the reapportionment process, Anchorage has been gaining people and S.E. has been losing them, resulting in an unacceptable imbalance of representation.Due to the census correction, Anchorage area gained 1414 people. As a result of considering additional non-resident military, rural Alaska lost 2067 people, and specifically Southeast lost 484. Most significant of all is moving Cordova, thus reducing Southeast's population by another 2241 people. So, as a result of the reapportionment the disparity between Anchorage and Southeast has grown by 4139 people (1414 + 2241 + 484).

Since the Carpenter v. Hammond case which required removal of Cordova from the Iceworm District, the current Board seems to be picking and choosing when to apply the socio-economic test and when not to. In Plan 2 (Dec. 19,1983) Port Graham and English Bay were reincluded in District 5 because of the feeling from public testimony that their ties were with Seldovia and Homer. This move increased the variances of both Districts 5 and 6, but the Board made the move because of the economic ties and they felt it was reaching a long way from Prince William Sound just to include these two communities.

The same socio-economic and distance arguments can be made for Metlakatla in Southeast, yet no changes were made. The people of Metlakatla have strongly voiced their desire to be politically attached to Ketchikan only a few miles away and not be forced to vote for a representative that lives four or five hundred miles away. All of their ties are with Ketchikan - social, economic, transportation, communication, yet Metlakatla is included with Yakutat, Haines and Skagway who are far away and have few if any direct ties. It seems the Board is reaching as far in this Southeast District as it did with Port Graham and English Bay, yet no changes have been made.

Including Nikishki (North Kenai) in one district with South Anchorage seems as bad as the above cases. People from North Keani and South Anchorage have expressed their displeasure at being combined into one district. All of Nikishki's ties are with Kenai. Travel must be through Kenai to get to Anchorage. Nikishki belongs to the Kenai school district not Anchorage. Again, despite few ties between two areas and public opposition the Board has placed them in the same district.

Why are a few blocks from Muldoon plased in District 15 which is primarily Eagle River-Chugiak? Why is Tyonek, an area in the Kenai School District and with all its ties to Anchorage or Kenai, the only coastal village in a huge district stretching far into the Interior? It seems that the current Board lacks a consistent set of guidelines to apply during the reapportionment process.

One guideline which would improve representation would be to fashion all single member House and Senate seats. The history of Alaska since the Statehood convention of 1955-56 has shown a continuous effort to move toward single member elected House and Senate seats. Catering to this principle that insures and enhances one person one vote will readily decrease the problems of equal representation and drawing of election boundary lines.

Single member seats would guarantee that your representative would live in your District. One strong block of voters, such as Eagle River or downtown wouldn't be able to elect both representatives for the whole election area.

Single seat districts further guarantee representation for neighborhoods in large urban areas. In the future Fairview and Mountain View will always be sure of a Representative that truly lives in their area. Chugiak-Eagle River can easily support its own single Senate seat and two House seats. Under the current districts (1981) there are no Senators living in District 13. If Plan 2 (Dec. 19,1983) were adopted and the current Senators were re-elected, Districts 13 and 14 (all of east Anchorage) would lack senators living in their district.

Multi-member districts also discriminate against the political candidates in them. It costs a lot more to run a campaign focused at 18,500 people (multi-member district size) than one for 9250 people. Single member districts make it more feasible (less money) for the average person to run for office. And once in office it costs less for mailouts to smaller districts. Fewer people to represent would hopefully result in better representation. In large districts (area wise) single seats cut down the distance a representative must travel to physically meet constituents.

It must be noted again that many of the problems mentioned in this report are unsurmountable when working within the constraints given the current Board. The Boards current plans (1 and 2) which discriminate against a large number of people and many regions of the state, will no doubt face expensive and time consuming litigation. Rather than end up with a patch-work reapportionment that must be lived with until 1990, why not take the necessary time and use specific guidelines to fashion a fair and equitable state reapportionment plan.

TABLE I

Anchorage vs Southeast

Plan 2
Dec. 19, 1983

Southeast 6 House Seats

| District | Population | Variance |
|---|---|---|
| D1 | 16602 | -9.9 |
| D2 | 8924 | -3.1 |
| D3 | 8449 | -8.3 |
| D4 | 19333 | +4.9 |
| | 6/ 53308 = | 8885/seat |

Ave. S.E. variance) 3.5%

Anchorage

| District | Population | Variance |
|---|---|---|
| D7 | 9580 | +4.0 |
| D8 | 19231 | +4.4 |
| D9 | 19156 | +4.0 |
| D10 | 18184 | -1.3 |
| D11 | 18804 | +2.1 |
| D12 | 18678 | +1.4 |
| D13 | 19173 | +4.1 |
| D14 | 18265 | - .1 |
| | 17/159466 = | 9380/seat |

Ave. Anchorage Variance +1.8%

State Total 368,420 ÷ 40 = 9210.5

Difference per average seat Anchorage vs S.E. 9380 - 8885 = 495

Total people not represented in Anchorage 495 x 17 = 8415

TABLE II

Southeast vs Anchorage

Plan 2
Dec 19, 1983

Total Population 53308 + 159466 = 212774
Southeast Anchorage

Ave Juneau Seat Size 8885 212774 ÷ 8885 = 23.95

23.95 - 6 = 17.95

Should be 6 seats in Juneau and 18 in Anchorage

S.E.

6/ 53308 = 8885/seat

Ave S.E. variance - 3.5%

Anchorage

17/ 159466 = 9380/seat

Ave Anch variance + 1.8%

9380 - 8885 = 495/seat

495 x 6 = 2970

495 x 17 = 8415

TABLE III

Remaining AK (excluding Anch) vs Southeast

Plan 2
Dec. 19, 1983

Remaining Alaska (excluding Anch)

| District | Population | Variance |
|---|---|---|
| D5 | 19190 | +4.2 |
| D6 | 8598 | -6.7 |
| D16 | 17692 | -3.9 |
| D17 | 8918 | -3.2 |
| D18 | 9300 | + .9 |
| D19 | 8934 | -3.0 |
| D20 | 18320 | - .5 |
| D21 | 9247 | + .4 |
| D22 | 8999 | -2.3 |
| D23 | 9339 | +1.4 |
| D24 | 8936 | -3.0 |
| D25 | 9432 | +2.4 |
| D26 | 9158 | - .6 |
| D27 | 9592 | +4.1 |

17/ 155655 = 9156/seat

9210
-9156
54

54
9210 = -0.6%

Southeast 6 seats

| District | Population |
|---|---|
| D1 | 16602 |
| D2 | 8924 |
| D3 | 8449 |
| D4 | 19333 |

6/ 53308 = 8885/seat

9210
-8885
325

325
9210 = 3.5%

9156
-8885
271/
seat

271
x17
4607

Anchorage vs Remain Alaska (excluding S.E.)

Plan 2
Dec. 19, 1983

| | | | | |
|---|---|---|---|---|
| Anch | 17 seats | 159466 | 9380 | +1.8% |
| Alaska | 17 seats | -155656 | 9156 | -0.6% |
| | | 3820 | 224/seat | |

Anchorage vs Rest of Alaska (including S.E.)

| | | | | |
|---|---|---|---|---|
| Anch | 17 seats | 159466 | 9380/seat | +1.8% |
| Alaska | 23 seats | 208954 | 9085/seat | -1.4% |
| | | | 295/seat | |

295
x17
5015

# Plan 1

S.E. 6 seats

| District | Population |
|---|---|
| D1 | 16602 |
| D2 | 8924 |
| D3 | 8449 |
| D4 | 19333 |
| 6/ | 53308 = 8885/seat |

Ave S.E. Variance = -3.2%
Ave S.E. Seat size - 8885

Anchorage 17 seats

| District | Population |
|---|---|
| D7 | 9110 |
| D8 | 18269 |
| D9 | 18005 |
| D10 | 19083 |
| D11 | 18960 |
| D12 | 18170 |
| D13 | 18908 |
| D14 | 19032 |
| D15 | 18561 |
| 17/ | 158053 = 9297/seat |

Ave Anch Variance = +1.3%
Ave Anch Seat size = 9297

9297 - 8885 = 412/seat

6 S.E. seats vs 6 Ave Anch seats 53308 - 55782 = 2474

6 S.E. seats vs 6 most populated Anch seats 57030 - 53308 = 3722

Total Anch under represented vs. S.E. = 17 x 412 - 7004

Total Alaska under represented vs. S.E. = 7004 + 4641 = 11645

TABLE X

Districts With Combined Variances
Greater Than Ten Percent

| Districts | Variances |
|---|---|
| 1 v. 4 | 9.9 + 4.9 = 14.8 |
| 1 v. 5 | 9.9 + 4.2 = 14.1 |
| 1 v. 7 | 9.9 + 4.0 = 13.9 |
| 1 v. 8 | 9.9 + 4.4 = 14.3 |
| 1 v. 9 | 9.9 + 4.0 = 13.9 |
| 1 v. 11 | 9.9 + 2.1 = 12.0 |
| 1 v. 12 | 9.9 + 1.4 = 11.3 |
| 1 v. 13 | 9.9 + 4.1 = 14.0 |
| 1 v. 18 | 9.9 + 0.9 = 10.8 |
| 1 v. 21 | 9.9 + 0.4 - 10.3 |
| 1 v. 23 | 9.9 + 1.4 = 11.3 |
| 1 v. 25 | 9.9 + 2.4 = 12.3 |
| 1 v. 27 | 9.9 + 4.1 = 14.0 |

| Districts | Variances |
|---|---|
| 3 v. 4 | 8.3 + 4.9 = 13.2 |
| 3 v. 5 | 8.3 + 4.2 = 12.5 |
| 3 v. 7 | 8.3 + 4.0 = 12.3 |
| 3 v. 8 | 8.3 + 4.4 = 12.7 |
| 3 v. 9 | 8.3 + 4 0 = 12.3 |
| 3 v. 11 | 8.3 + 2 1 = 10.4 |
| 3 v. 13 | 8.3 + 4.1 = 12.4 |
| 3 v. 25 | 8.3 + 2.4 = 10.7 |
| 3 v. 27 | 8.3 + 4.1 = 12.4 |
| 6 v. 4 | 6.7 + 4.9 = 11.6 |
| 6 v. 5 | 6.7 + 4.2 = 10.9 |
| 6 v. 8 | 6.7 + 4.4 = 11.1 |
| 6 v. 9 | 6.7 + 4.0 = 10.7 |
| 6 v. 13 | 6.7 + 4.1 = 10.8 |
| 6 v. 27 | 6.7 + 4.1 = 10.8 |

BILL SHEFFIELD
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 6, 1984

The Honorable Terry Martin
State Representative
Pouch V
Juneau, AK 99811

Dear Mr. Martin:

Thank you for your recent letter expressing your concerns with the 1981 Reapportionment Plan, the restrictions placed on this Board by the Court, and our current proposals to amend the plan. We appreciate your time in preparing the extensive background information that accompanied your letter.

First, let me say that it is unlikely that this Board would encourage Governor Sheffield to seek authority from the Court to undertake a comprehensive redistricting of the state. Although we understand and appreciate your contention that there may have been serious problems with the work of the previous board, it appears the courts have already made their decision on the validity of that plan.

Secondly, we have been subjected to criticism from those who believe we have already gone too far in making our revisions. Those criticisms center around the use by this Board of official corrections made by the U.S. Bureau of the Census to the 1980 census counts for Alaska. These corrections were not available to the 1981 Board. As you know, our state constitution requires that reapportionment utilizes federal census data. We feel that this implies use of the most accurate census data available.

Finally, we realize that some people will be unhappy with our recommendations. Reapportionment is a very difficult task and one that is surrounded by controversy. Given the history of reapportionment litigation in our state, it is

likely that this plan will face legal challenge. Please be assured that this Board has made every effort to follow the constitutional and court-mandated guidelines in developing our proposal.

Thank you again for your letter.

Sincerely,

William Hensley/dgr

William Hensley
Chairman
Reapportionment Board

cc: Governor Sheffield
Senator Jalmar Kerttula
Representative Joe Hayes
Attorney General Gorsuch
Press

Alaska State Legislature

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

January 9, 1984

FOR IMMEDIATE RELEASE
CONTACT: REP. TERRY MARTIN
465-3783 or 465-3784

## REP. MARTIN SEEKS CONSTITUTIONAL AMENDMENT ON REAPPORTIONMENT PROCESS

JUNEAU - Rep. Terry Martin today introduced a House Joint Resolution which would place a constitutional amendment to alter the state's reapportionment process on the 1984 general election ballot.

Martin said the constitutional amendment is needed to "correct the potential for party politics of being the major consideration for reapportionment."

As proposed in HJR 53:

- The entire state would be reapportioned into single-member House and Senate election districts;

- Only a two percent disparity in population will be allowed statewide and no more than five percent disparity per district;

- All military personnel and their families must be counted equally throughout the state.

"This resolution calls for the necessary changes in the state constitution pertaining to equality of representation for all Alaskans," said Martin, R-Anchorage.

"A major feature of this is to correct a problem that discriminates against military residents," Martin said. "As it is now, most military residents are treated like second-class citizens."

Currently, most military residents living in the southeast and southwest portions of the state are counted as "100 percent" residents. But in Anchorage and Fairbanks, Martin said, the military residents count as only "15 percent" residents. This inequitable formula, Martin said, inflates the population statistics for the southern parts of the state while "robbing Anchorage and Fairbanks of equal representation."

"The disparity from district to district is appalling," Martin said. "Some areas, primarily Anchorage, are under represented."

Martin said his resolution would allow only a five percent disparity in population in each district "with some justification for socio-economic factors."

"But in the last reapportionment (1980) and the current reapportionment negotiations, the boards have put socio-economic factors ahead of equal representation."

Martin said he is confident the resolution would be approved by the voters, "If this does pass both houses I'll be surprised," Martin said. "It won't allow them to play as many games."

But Martin said he felt the public, if given the opportunity, would support his measure.

"It's fair, it's equal and I just hope the other members of the legislature put aside party politics and vote for something that allows the state equal representation for all residents.

"This is really getting down to the fundamentals of pure democracy," Martin concluded. "The goal is to get this on the ballot and let the people see the value of it and vote accordingly."

# # # # # #

# lan would redistrict entire city

dy Ryan
:ress Bureau

ieau — All nine of Anchor- legislative election dis- would have their bounda- hanged under one of two inary plans developed Wednesday by the state's eapportionment board.

econd plan put forward by anel would make what at glance appears to be only changes in five of the nine election districts.

e reapportionment board, appointed Oct. 20 by Gov. Bill Sheffield, is scheduled to present Sheffield with a final plan for redrawing the state's election lines by Jan. 3. The governor then has until Feb. 4 to adopt a plan of his own, employing the board's recommendations as he sees fit.

Last month, Judge Milton Souter ordered that a new reapportionment board be created.

Souter's action was in response to a July ruling by the state supreme court, which held that a 1981 reapportionment board erred when it included Cordova in the so-called "Iceworm" election district" — a 700-mile-long corridor extending from Prince William Sound to the southern tip of the Alaska Panhandle.

In ordering the new board, Souter directed that it shift a minimum of existing election district boundaries. He also ordered that the board only use census data available at the time the 1981 reapportionment was challenged.

Jon Rubini, an assistant state attorney general serving as the board's lawyer, said the panel developed two plans because, due to a clerical error, the 1980 U.S. Census failed to count 1,039 people in the Eagle River area.

If those people are included in a redistricting plan, he said, it will be necessary to draw new boundaries for all of Anchorage's election districts.

Rubini said, Souter's instructions were "do not use adjust-

See GOPs, page A-10



# OPs blast plan

tinued from page A-1

ts to the census data which e not adjusted prior to (the lenge of the 1981 reapportion- t).

Technically, these adjust- ts were released by the Cen- Bureau prior to (that chal- e). We certainly recognize it's not within the spirit of udge's order."

ut to ignore the new census res for Eagle River, Rubini , could render a new reap- ionment plan subject to legal lenges.

It's not right that if we know e was a clerical error in the nitude of 1,000 people, it's air to the people of that side ie state that their apportion- t would be based on errone- numbers."

nchorage Republicans, how- , said today that the idea of ting the new Eagle River us data is a ruse by the Dem- tic-controlled board to ger- ander Anchorage's political ict.

n initial look at the options would shift the lines the dramatically indicates they d force some incumbent Re- icans from Anchorage out of .

One option would put Reps. Charlie Bussell, John Lindauer, Terry Martin and John Cowdery in the same two-seat district; and Reps. Ramona Barnes, Walt Furnace and Jerry Ward in another two-seat district.

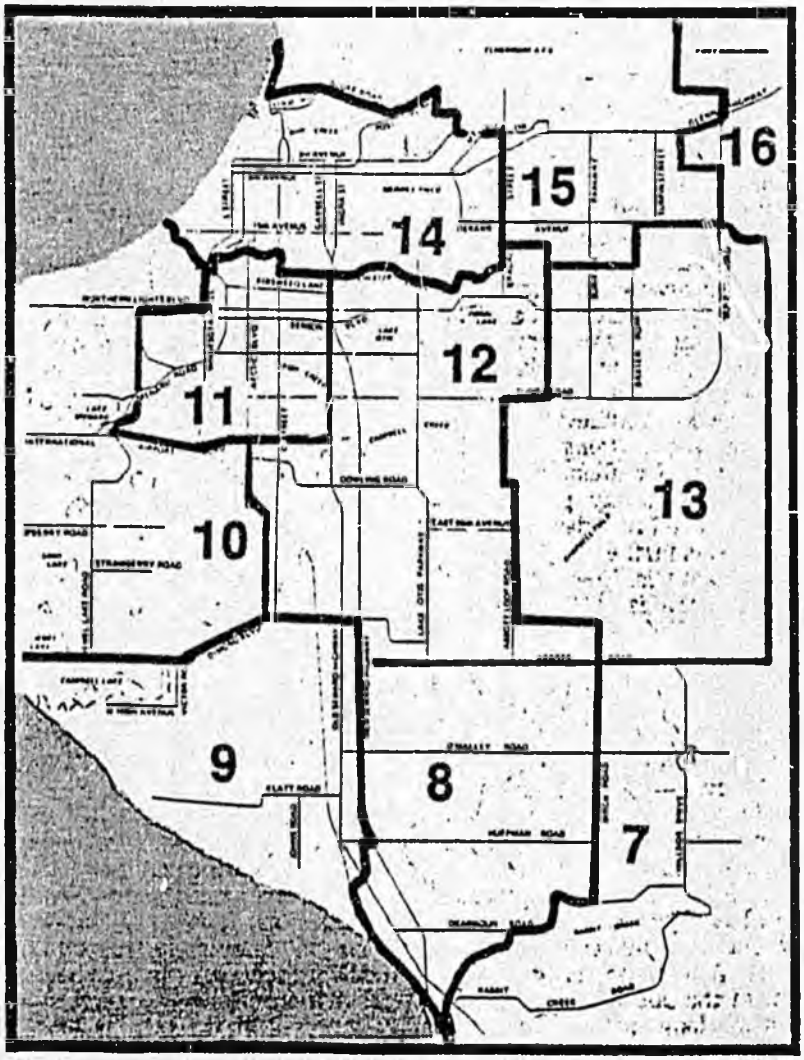
The other option would put Barnes, Ward, Lindauer and Furnace in a two-seat district.

"The key to this whole reorganization is whether they're going to count increased population out in Eagle River-Chugiak. If they can do that, they're going to use that as an excuse to rewrite the entire Anchorage area," said Sen. Tim Kelly, R-Anchorage.

Another Anchorage Republican, Sen. Arliss Sturgulewski, said that even if the new Eagle River numbers are counted, wholesale redistricting in Anchorage will not be necessary.

Jeff Day, a spokesman for House Speaker Joe Hayes, R-Anchorage, said, "There appear to be substantial changes in most of the districts, and you'd have to question whether those changes are really necessary."

Willie Hensley, chairman of the reapportionment board, couldn't be reached for comment this morning on the Republicans' statements.




Charles Atkins for The Times

A reapportionment option that would take care of Eagle River undercount

## ARTICLE VI

## LEGISLATIVE APPORTIONMENT

**Election Districts**

SECTION 1. Members of the house of representatives shall be elected by the qualified voters of the respective election districts. Until reapportionment, election districts and the number of representatives to be elected from each district shall be as set forth in Section 1 of Article XIV.

**Senate Districts**

SECTION 2. Members of the senate shall be elected by the qualified voters of the respective senate districts. Senate districts shall be as set forth in Section 2 of Article XIV, subject to changes authorized in this article.

**Reapportionment of House**

SECTION 3. The governor shall reapportion the house of representatives immediately following the official reporting of each decennial census of the United States. Reapportionment shall be based upon civilian population within each election district as reported by the census.

**Method**

SECTION 4. Reapportionment shall be by the methods of equal proportions, except that each election district having the major fraction of the quotient obtained by dividing total civilian population by forty shall have one representative.

**Combining Districts**

SECTION 5. Should the total civilian population within any election district fall below one-half of the quotient, the district shall be attached to an election district within its senate district, and the reapportionment for the new district shall be determined as provided in Section 4 of this article.

**Redistricting**

SECTION 6. The governor may further redistrict by changing the size and area of election districts, subject to the limitations of this article. Each new district so created shall be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area.



Each shall contain a population at least equal to the quotient obtained by dividing the total civilian population by forty. Consideration may be given to local government boundaries. Drainage and other geographic features shall be used in describing boundaries wherever possible.

**Modification of Senate Districts**

SECTION 7. The senate districts, described in Section 2 of Article XIV, may be modified to reflect changes in election districts. A district, although modified, shall retain its total number of senators and its approximate perimeter.

**Reapportionment Board**

SECTION 8. The governor shall appoint a reapportionment board to act in an advisory capacity to him. It shall consist of five members, none of whom may be public employees or officials. At least one member each shall be appointed from the Southeastern, Southcentral, Central and Northwestern Senate Districts. Appointments shall be made without regard to political affiliation. Board members shall be compensated.

**Organization**

SECTION 9. The board shall elect one of its members chairman and may employ temporary assistants. Concurrence of three members is required for a ruling or determination, but a lesser number may conduct hearings or otherwise act for the board.

**Reapportionment Plan and Proclamation**

SECTION 10. Within ninety days following the official reporting of each decennial census, the board shall submit to the governor a plan for reapportionment and redistricting as provided in this article. Within ninety days after receipt of the plan, the governor shall issue a proclamation of reapportionment and redistricting. An accompanying statement shall explain any change from the plan of the board. The reapportionment and redistricting shall be effective for the election of members of the legislature until after the official reporting of the next decennial census.

Enforcement

SECTION 11. Any qualified voter may apply to the superior court to compel the governor, by mandamus or otherwise, to perform his reapportionment duties or to correct any error in redistricting or reapportionment. Application to compel the governor to perform his reapportionment duties must be filed within thirty days of the expiration of either of the two ninety-day periods specified in this article. Application to compel correction of any error in redistricting or reapportionment must be filed within thirty days following the proclamation. Original jurisdiction in these matters is hereby vested in the superior court. On appeal, the cause shall be reviewed by the supreme court upon the law and the facts.

## ARTICLE VII

## HEALTH, EDUCATION, AND WELFARE

Public Education

SECTION 1. The legislature shall by general law establish and maintain a system of public schools open to all children of the State, and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution.

State University

SECTION 2. The University of Alaska is hereby established as the state university and constituted a body corporate. It shall have title to all real and personal property now or hereafter set aside for or conveyed to it. Its property shall be administered and disposed of according to law.

Board of Regents

SECTION 3. The University of Alaska shall be governed by a board of regents. The regents shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. The board shall, in accordance with law, formulate policy and appoint the president of the university. He shall be the executive officer of the board.



Public Health

SECTION 4. The legislature shall provide for the promotion and protection of public health.

Public Welfare

SECTION 5. The legislature shall provide for public welfare.

## ARTICLE VIII

## NATURAL RESOURCES

Statement of Policy

SECTION 1. It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.

General Authority

SECTION 2. The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.

Common Use

SECTION 3. Wherever occurring in the natural state, fish, wildlife, and waters are reserved to the people for common use.

Sustained Yield

SECTION 4. Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses.

Facilities and Improvements

SECTION 5. The legislature may provide for facilities, improvements, and services to assure greater utilization, development, reclamation, and settlement of lands, and to assure fuller utilization and development of the fisheries, wildlife, and waters.

State Public Domain

SECTION 6. Lands and interests therein, including submerged and tidal lands, possessed or

Note Copy

# MEMORANDUM State of Alaska

TO: William Hensley, Chairman
Reapportionment Board

DATE: January 10, 1984

FILE NO:

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Legal review of proposed reapportionment plan

By: Jonathan B. Rubini
Assistant Attorney General

Following the Reapportionment Board's (Board) tentative adoption on December 16, 1983 of proposed amendments to the 1981 Reapportionment Plan (Plan,, the Department of Law requested an opportunity to review certain legal concerns which had been raised during the course of the Board's deliberations. Our legal review of several probable areas of concern are set forth in this memorandum. We caution, however, that the law relating to reapportionment is, in many respects, quite unsettled and that, as a consequence, our legal analysis is intended more as an indication of probable judicial analysis than as a statement of legal validity. 1/

## I. Southeast Alaska

The proposed configuration of districts in Southeast Alaska retains the conceptual approach embodied in the 1981 Plan. Cordova, of course, has been removed from District 2. To retain the concept of a predominantly rural, "island chain" district, the communities of Metlakatla and Hoonah were removed from Districts 1 and 3 respectively, and relocated into District 2. In other respects, the 1981 Plan is unchanged. The comparative variation of this proposed plan is 14.8 percent, with District 4 (Juneau) the most overpopulated district, and District 1 (Ketchikan) the most underpopulated.

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1/ To assist in this review, the Department of Law engaged the law firm of Sanosky, Chambers, Sachse & Guido, a firm located in Washington, D.C. with substantial expertise in the areas of reapportionment law. The views of the Sanosky firm are included within this memorandum.

To evaluate the proposed configuration, we assess the proposed Plan as opposed to Southeast Option No. 5, an alternative option considered by the Board which rejects the concept of District 2, and instead divides the region in a more horizontal fashion. Under this plan, District 1 would be a two-member district which includes Ketchikan, Metlakatla, Wrangell, and Prince of Wales. District 2 would include Petersburg, Hoonah, Gustavus, Haines, Skagway, and Yakutat. The comparative variation in this plan is 15.5 percent.

## A. Population Variances

We first address whether the proposed comparative variance of 14.8 percent raises a substantial legal problem under the Equal Protection Clause of the United States and Alaska Constitutions.

In Reynolds v. Sims, 377 U.S. 533 (1964), the Supreme Court enunciated the basic test for judging the population distribution in a state legislative redistricting plan, with the Equal Protaction Clause:

> [T]he Equal Protection Clause requires that a State make an honest and good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable.

377 U.S. at 577. The Court recognized that "legitimate considerations incident to the effectuation of a rational state policy," 377 U.S. at 579, such as a desire to respect subdivision lines or to provide for compact districts of contiguous territory, justify some deviations from the principle of equal population. But it cautioned that the "overriding objective" of state redistricting plans "must be substantial equality of population among the districts, so that the vote of any citizen is approximately equal in weight to that of any other citizen." Id. 2/

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2/ In Reynolds, the Court struck down population variance ratios of 41 to 1 in the Alabama Senate and 16 to 1 in the Alabama House. 377 U.S. at 546. On the same day Reynolds was decided, continued

In the cases subsequent to Reynolds and its companion cases, the Court refined its analysis of permissible population variances in state legislative redistricting plans. Although the Court has acknowledged that such districts are to be judged by more flexible standards than congressional districts, see e.g., Wesberry v. Sanders, 376 U.S. 1 (1964); Kirkpatrick v. Roeisler, 394 U.S. 526 (1969); Gaffney v. Cummings, 412 U.S. 735, 742 (1973), the apparent "rule" is that state legislative districts should not exceed a maximum deviation of 10 percent, and may not exceed a maximum deviation of 16.5 percent. This rule has been applied -- virtually without exception -- since the early 1970's by both the Supreme Court and the lower federal courts.

In Swann v. Adams, 385 U.S. 440 (1967), for instance, the Supreme Court disapproved of maximum variance of 25.65 percent in the Florida legislature. Similarly, it disapproved a maximum deviation of 26.48 percent in Kilgarin v. Hill, 386 U.S. 120 (1967), and deviations of 24.78 percent and 28.20 percent in Whitcomb v. Chairs, 403 U.S. 124 (1971). On the other hand, the Court permitted a maximum deviation of 7.83 percent in Gaffney v. Cummings, 412 U.S. 735 (1973), and, with justification by the state, a deviation of 11.9 percent in Abate v. Mundt, 403 U.S. 182 (1971).

In White v. Regester, 412 U.S. 755 (1973), the Court held that a maximum deviation of 9.9 percent in a state redistricting plan did not, in itself, establish a prima facie case of invidious discrimination under the Equal Protection Clause. 412 U.S. at 764. Thus, the state bore no burden to justify any deviation up to that degree. Id. The Court did recognize, however, that "larger differences between districts would not be tolerable without justification" based on the effectuation of a rational state policy. Id.

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2/ continued
the Court also struck down redistricting plans with a variance ratio of 1.7 to 1 in the House and 3.6 to 1 in the Senate in Colorado, Lucas v. Colorado General Assembly, 377 U.S. 713 (1964); a variance of 32 to 1 in the Senate and 6 to 1 in the House in Maryland, Maryland Committee v. Tawes, 377 U.S. 656 (1964), a variance of 2.65 to 1 in the Senate and 4.36 to 1 in the House in Virginia, Davis v. Mann, 377 U.S. 678 (1964), and a variance of 15 to 1 in the Senate and 35 to 1 in the House in Delaware, Roman v. Sincock, 377 U.S. 695 (1964). In each instance, the Court found that such wide population disparities among legislative districts violated the Equal Protection Clause.

In a prior case, Mahan v. Howell, 410 U.S. 315 (1973), the Court permitted Virginia to adopt a plan with a maximum deviation of 16.4 percent -- but only after making a strong demonstration that the deviation was justified by the state policy of respecting subdivision boundaries. 410 U.S. at 328. The Court expressly noted that the 16.4 percent deviation approved in Mahan "may well approach tolerable limits ..." 410 U.S. at 329.

16.4%

The Court has adopted a three part test. Maximum deviations below 10 percent are treated by the Court as "minor deviations from mathematical equality" which are "insufficient to make out a prima facie case of invidious discrimination ... so as to require justification by the State." Gaffney v. Cummings, 412 U.S. at 745. Deviation greater than 10 percent but less than the 16.5 percent in Mahan "may be sufficiently large to require justification but nonetheless justifiable and legally sustainable." Id. Finally, deviations larger than the 16.4 percent approved in Mahan would likely exceed the tolerable limits in state redistricting plans. 3/

Virtually all court rulings from the early 1970's to the present support these distinctions. Maximum deviations below 10 percent are approved with little or no further scrutiny, and those below 16.5 percent approved if justified by a rational state policy. See, e.g., Farnum v. Burns, 561 F. Supp. 83 (D. R.I. 1983) (deviation of 2.5 percent); Bover v. Gardner, 540 F. Supp. 624 (D. N.H. 1982) (deviation of 13.74 percent); Winter v. Dockering, 373 F. Supp. 308 (D. Kansas 1974) (deviation of 11.6

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3/ A 1983 case, Brown v. Thomson, _____ U.S. _____, 77 L.Ed.2d 214 (1983) appears as an exception to this rule but is, we believe, of virtually no precedential value. There, the Court approved an extraordinary maximum deviation of 89 percent in the Wyoming House of Representatives on the grounds that the state redistricting plan furthered the state policy of preserving county boundaries. 77 L.Ed.2d at 272. The Court found the population variances to be "entirely the result of the consistent and nondiscriminatory application of a legitimate state policy." Id. at 223. However, the Court explicitly addressed only the marginal deviation that resulted from the overrepresentation of a particular county. Indeed, six members of the Court, including two justices from the majority, noted the limited question at issue, and as a consequence, Brown will likely have little, if any, precedential effect.

percent); Gaines v. Herskell, 362 F. Supp. 313 (S.D. W.Va. 1973) (deviation of 16.1 percent); Kelly v. Bumpers, 340 F. Supp. 468 (B.D. Ark. 1972) (deviations of 3.5 percent and 9.5 percent); Dunn v. State of Oklahoma, 343 F. Supp. 320 (W.D. Okla. 1972) (deviation of 2.2 percent); In re Senate Bill No. 220, 225 Kan. 628, 593 P.2d 1 (Kansas 1979) (deviation of 6.5 percent); In re Senate Bill 177, 318 A.2d 157 (Vt. 1974) (deviation of 16.6 percent); Franklin v. Krause, 367 N.Y.S.2d 998 (N.Y. 1975) (deviation of 8.6 percent) (county commissioners); Schneider v. Rockefeller, 31 N.Y.2d 420, 293 N.E.2d 67 (N.Y. 1972) (deviations of 1.82 percent and 3.38 percent); Davenport v. Apportionment Commission, 65 J.J. 125, 319 A.2d 718 (N.J. 1974) (deviation of 4.2 percent); In re Apportionment Law, 263 So.2d 797 (Fla. 1972) (deviations of .3 percent and 1.15 percent).

On the other hand, maximum deviations exceeding 16.5 percent are, virtually without exception, stuck down as a violation of equal protection. As one federal court noted in a recent decision:

> In fact, as far as we can ascertain from independent research, it appears that no court since Mahan has upheld a legislative reapportionment scheme which includes a maximum deviation of 16.5% or more. Apparently most courts have read the Supreme Court's caveat in Mahan as implicitly setting this figure as the outermost limit allowed by the Constitution.

Travis v. King, 552 F. Supp. 554, 562 (D. Hawaii 1982). A review of the court decisions confirms the view that a 16.5 percent maximum deviation is the limit permissible, and that deviations between 10 percent and 16.5 percent will be approved only if justified by the state. See, e.g., Farnum v. Burns, 548 F. Supp. 769 (D. R.I. 1982) (disapproved deviation of 88 percent); Travis v. King, 552 F. Supp. 554 (D. Hawaii 1982) (disapproved deviations of 15.02 percent and 43.2 percent); Sanchez v. King, 550 F. Supp. 13 (D. N.M. 1982) (disapproved deviations of 94 percent and 83 percent); Cosner v. Dalton, 572 F. Supp. 350 (E.D. Va. 1981) (disapproved deviations of 26.63 percent and 72.12 percent); Mader v. Crowell, 498 F. Supp. 726 (M.D. Tenn. 1980) (disapproved deviation of 18.03 percent); Sullivan v. Crowell, 444 F. Supp. 606 (W.D. Tenn. 1978) (disapproved deviations of 21.8 percent and 35.6 percent); Chapman v. Meier, 407 F. Supp. 649 (D. N.D. 1975) (disapproved deviation of 20.17 percent); Cohen v. Maloney, 410 F. Supp. 1147 (D. Del. 1976) (disapproved deviation of 18.3 percent) (city council); Winter v. Docking, 356 F. Supp. 88 (D. Kansas 1973) (disapproved deviation of 12.41

percent); Sims v. Amos, 336 F. Supp. 924 (M.D. Ala.) aff'd 409 U.S. 942 (1972) (disapproved deviations of 28.65 percent and 24.28 percent); Stufy v. Anderson, 93 [illegible].2d 546, 611 P.2d 764 (Wash. 1980) (disapproved deviation [illegible]8.6 percent) (county commissioner); In re Senate Bill 177, [illegible] A.2d 657 (Ver. 1972) (deviation of 25.33 percent disapproved); Franklin v. Krause, 367 N.Y.S. 998 (N.Y. 1975) (deviation of 2[illegible] percent disapproved) (county commissioner); Scrimminger v. Sherwin, 60 N.J. 483, 291 A.2d 134 (N.J. 1972) (deviations of 28.83 percent and 26.20 percent disapproved); Opinion of the Justices, 307 A.2d 198 (Me. 1973) (deviation of 94.02 percent disapproved).

Thus, any state redistricting plan with a maximum deviation less than 10 percent will likely be found per se not to violate the Equal Protection Clause. A plan with a deviation between 10 percent and 16.5 percent may be upheld if the state meets its burden of rebutting a prima facie violation of equal protection by demonstrating both that the state made a good faith effort to minimize the population deviation and that the deviation is necessary to effectuate a legitimate state policy, such as compact, contiguous districts that preserve subdivision lines. Finally, the case law indicates that maximum deviations in excess of 16.5 percent will likely be held to violate the equal protection clause, no matter what justification is offered by the state. Accordingly, deviations in excess of 16.5 percent would raise substantial legal uncertainty and should thus be avoided.

It is our view that the projected deviation in Southeast Alaska does not violate the Equal Protection Clause. The projected variance directly results from the Board's decision to retain a two-member district within the boundaries of the City and Borough of Juneau, a district which is 4.8 percent overpopulated. Simply put, a population deviation of less than 10 percent could not be obtained unless a segment of the Juneau population was included within another southeast district. Importantly, the projected deviations under the proposed plan are less than 16.5 percent, threshhold recognized as the tolerable limit to permissible population deviations. Historically, of course, the boundaries of the Juneau area have been preserved in the redistricting process. Preservation of political subdivision boundaries has been repeatedly recognized as a legitimate state objective. E.g. Mahan v. Howell, 410 U.S. at 328. More importantly, the long-standing state policy to establish districts which are socio-economically integrated, as required under article 6, section 6 of the Alaska Constitution, may well preclude the promulgation of a reapportionment plan which severs the Juneau community. See Groh v. Egan, 526 P.2d at 879, n.65.

why split up Anchorage w/ Nikiski?

B. Voting Rights Act Considerations

Any consideration of the two identified alternative districting options in Southeast Alaska must revolve around a comparative assessment under the Voting Rights Act of 1965 (Act), as amended, 42 U.S.C. § 1973C. The inquiry as to compliance with the Act focuses on the impact on minority voting prerogatives. House District 2, as established in the 1981 Plan, contained a 27.5 percent Native population. The proposed District 2 would contain a 41.9 percent Native population, while under the alternative approach, 28.9 percent of the district would be Native.

Analysis

The Act was adopted to insure the protection of rights guaranteed by the Fifteenth Amendment and "to rid the country of racial discrimination in voting." South Carolina v. Katzenbach, 383 U.S. 301 (1966). Section 5 requires that no jurisdiction subject to "preclearance" procedures, such as Alaska, may implement any change in "any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting" unless such change has been approved by the United States Attorney General or the District Court for the District of Columbia. 42 U.S.C. § 1973C. The standard on review is to ensure that such change "does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color." Id. This standard was intended to guarantee that gains in minority political participation "would not be emasculated or destroyed through new discriminatory procedures and techniques." Mississippi v. United States, 490 F. Supp. 569, 581 (D.D.C. 1979) (three-judge court).

The Supreme Court has held that section 5 applies to state legislative redistricting plans. See Georgia v. United States, 511 U.S. 526 (1973); Beer v. United States, 425 U.S. 130 (1976); Allen v. State Board of Elections, 393 U.S. 544 (1969). The burden of proof lies with the state in demonstrating the legality of its plan under section 5. Georgia v. United States, supra; South Carolina v. Katzenbach, supra.

In Beer, supra, the Supreme Court stated the test for a section 5 analysis in terms of "retrogression":

> [T]he purpose of § 5 has always been to insure that no voting-procedure changes would be made that would lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise.

425 U.S. at 141. The central issue is whether a proposed change would "dilute the effectiveness" of the vote of a racial minority as compared to the situation prior to change. City of Rome v. United States, 446 U.S. 156, 183 (1980). Minority voting strength is impermissibly diluted when a redistricting scheme would operate "to minimize or cancel out the voting strength of racial elements of the voting population." Fortsen v. Dorsey, 379 U.S. 433, 439 (1965); Burns v. Richardson, 384 U.S. 73, 88 (1966).

In applying this test, lower federal courts have held that a redistricting plan dilutes minority votes when minority population concentrations are "unnecessarily fragmented and dispersed." Mississippi v. United States, 490 F. Supp at 582. In Kirksey v. Board of Supervisors, 554 F.2d 139 (5th Cir. 1977), for instance, the Fifth Circuit held that a reapportionment plan for a unit of local government would "tend to dilute the voting strength of the minority" because it fragmented members of the minority bloc between two districts. 554 F.2d at 144. See also Robinson v. Commissioners Court, 505 F.2d 674, 679 (5th Cir. 1974).

If viewed solely as a question of the percentage of Native voters in District 2, it would appear that neither of the two alternatives reflect a dimunition in minority voting strength. While the proposed District 2 would substantially enlarge the percentage of Native residents in District 2, the state is under no affirmative obligation to maximize the percentage of Native residents in the district.

We caution, though, that the probative consideration is whether a proposed redistricting would "delete the effectiveness" of the minority vote. Were the concept of a chain of rural, island communities rejected, it is arguable that the inclusion of rural Native communities with more urbanized population centers in Southeast may, as a practical matter, dilute the effectiveness of the minority vote. 4/ And, if the alternative districting

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4/ In preliminary research, we have not discovered any authority which directly addresses this matter.

proposal in southeast is viewed as a retrogressive plan, the fact that the alternative plan would extend, not reduce, the comparative population deviation in southeast would be material.

In sum, while we believe that either alternative would ultimately obtain Justice Department approval, we cannot unequivocally advise that the alternative approach to House District 2 would not prove violative of the Voting Rights Act. Our review of the available case law suggests that absent compelling facts to establish a dimunition in the effectiveness of minority voting prerogatives, a numerical inquiry is the traditional mode of analysis. Yet, it bears noting that while either version may well be acceptable under the Voting Rights Act, the likelihood of expeditious review and approval is undoubtedly furthered under the proposed District 2, a proposal which substantially increases the percentage of Native residents in the district.

## C. Article VI, Section 6 Considerations

Article VI, section 6 provides that all districts "shall be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic areas." As initially adopted at the constitutional convention, the substantive restrictions set forth in section 6 were principally intended to inhibit, if not prevent, the instances of impermissible political gerrymandering. 3 Alaska Legislative Council, Alaska Constitutional Convention 1846 (1965); see Carpenter v. Hammond, 667 P.2d 1204, ____ (Alaska 1983). The Carpenter decision illustrates, though, that the section 6 standard operates independent of any evidence of gerrymandering. Importantly, though, while the recent Carpenter ruling has spawned a broader public sensitivity to section 6 considerations, the substantive restrictions established in section 6 are subsidiary to the concern for equal population distribution, the "overriding objective" under a federal constitutional inquiry.

### 1. Compactness

Section 6 mandates that districts shall be compact. The compactness requirement, however, is clearly not an absolute standard which demands that any configuration less than the most compact is impermissible. The Alaska Supreme Court has unambiguously recognized the governor's authority under article

VI to select between single-member or multi-member districts. Cf. Groh v. Egan, 526 P.2d at 880; Egan v. Hammond, 501 P.2d at 873. Since a multi-member district is necessarily less compact than a single-member district, it is apparent that compactness is a relative concept.

While the alternative southeast configuration may well be more compact than the proposed configuration of District 2, I believe that either alternative satisfies the constitutional mandate. Importantly, the proposed configuration of District 2 is more compact than the district at issue in Carpenter, a district which a majority of the court did not find impermissibly noncompact. 5/

2. Socio-Economic Integration

The more difficult inquiry concerns the mandate to establish districts which "contain as nearly as practicable a relatively integrated socio-economic area." The most extensive discussion of the constitutional provision is included in Carpenter v. Hammond, 667 P.2d 1204. In Carpenter, the Alaska Supreme Court concluded that the record presented to the court did not establish the requisite degree of social and economic interaction between Cordova and the communities in District 2 to support the inclusion of Cordova within the district.

The Carpenter decision, however, raises far more questions with respect to the parameters of the relative socio-economic intergration standard than it provides answers. Several general comments are warranted. First, Carpenter clearly rejects the assertion that socio-economic homogeneity is itself sufficient to satisfy the constitutional prerequisite. 667 P.2d at _____. Second, the preferred interpretation of Carpenter is that at least a majority of the court apparently rejects the interpretation that section 6 demands that proposed districts are permissible only if socio-economic integration is maximized. The court noted that the state conceded that Cordova was more integrated with other Prince William Sound communities than with the communities in District 2. Notwithstanding the concession, the court recognized that the question was "extremely close," and concluded that "the record is simply devoid of evidence of

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5/ Justice Mathews concluded otherwise in a concurring opinion.

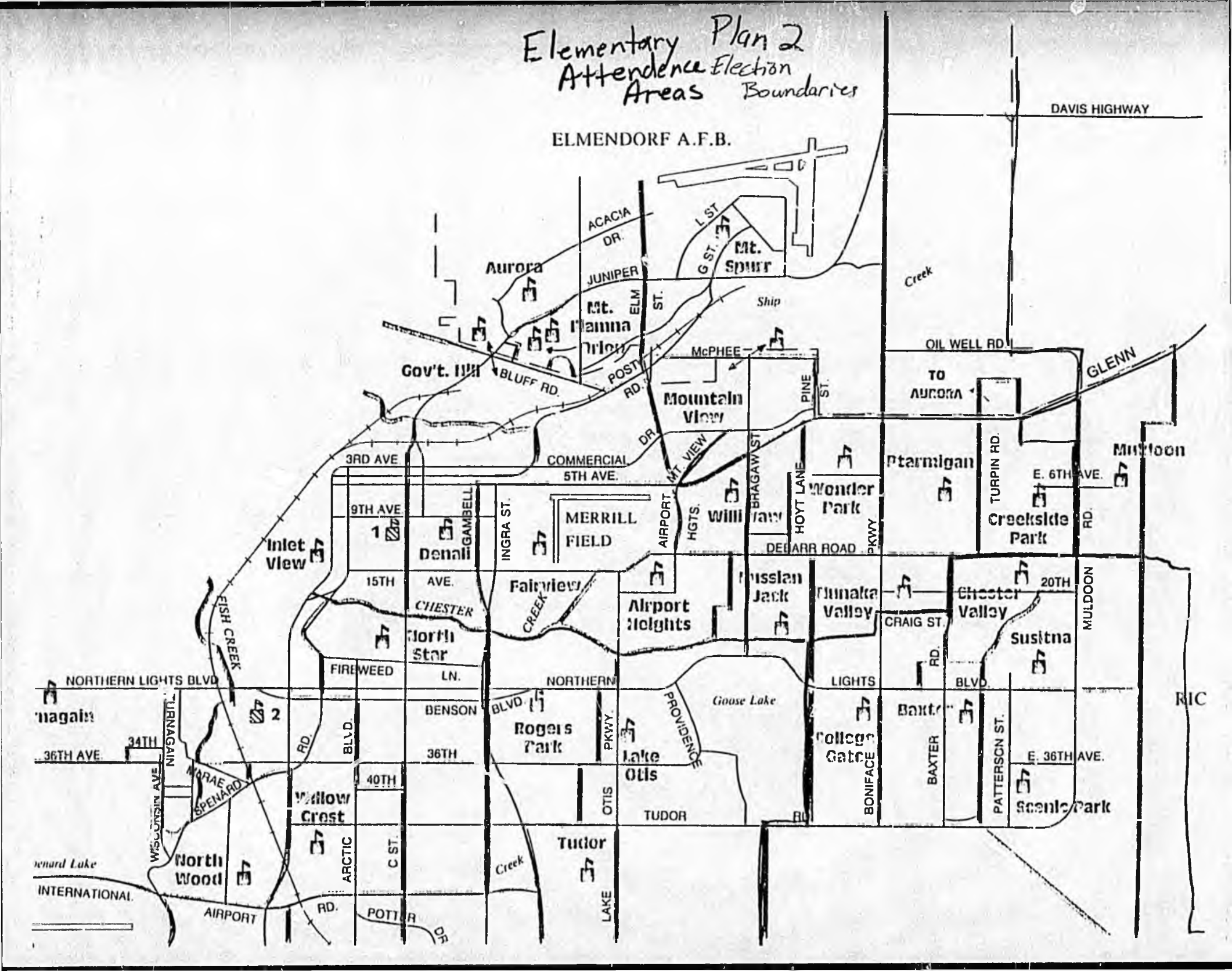
significant social and economic integration...." Id. at _____. Implicitly, then, evidence of "significant" socio-economic integration would be sufficient to meet the requirements of section 6. Unfortunately, the court did not articulate what quantum of social and economic integration is sufficient, nor did the court address the relationship between the socio-economic integration standard and other applicable constitutional standards.

Under the proposed configuration of District 2, the inclusion of Metlakatla within the district poses the most substantial integration question. Historically, Metlakatla has been united with Ketchikan for purposes of legislative apportionment, an area with which they share an obvious economic and social linkage. Again, though, we do not believe that the appropriate inquiry is whether Metlakatla is more integrated with the communities in District 1 than with the communities in District 2. Indeed, the inquiry is whether a significant degree of social and economic integration exists between Metlakatla and the other communities in the proposed district. While the question is quite close and depends to a large extent on the court's ultimate explication of the rule enunciated in Carpenter, we think it certainly arguable that the inclusion of Metlakatla in District 2 is consistent with the section 6 standard. Clearly, the degree of homogeneity is stronger in this instance than in the Cordova context. And, intervisitation between the rural communities in southeast is demonstrably more extensive than was the case between Cordova and the other communities within District 2.

We note, though, that the alternative southeast districting proposal does not, in our preliminary assessment, appear to pose as close a question under section 6. The significant aspect of the alternative configuration is the communities of Wrangell and Petersburg would not be included within the same distri That the two communities share an obvious and historic li age does not necessarily preclude the existence of sufficient ties to communities in Districts 1 and 2 respectively to support a districting proposal which places the communities in different legislative districts.

JBR:cyb

# Elementary Plan 2 Attendence Areas Election Boundaries



Judge Moore

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

| | |
|---|---|
| MARILYN CARPENTER, Plaintiff, vs. JAY S. HAMMOND, Governor of Alaska, Defendant. | No. 3AN-81-5839 Civ. |

NOTICE OF COMPLIANCE WITH FINAL JUDGMENT

The Governor of the State of Alaska, Jay S. Hammond, by and through his attorney, hereby gives notice of his compliance with the court's directions in its final judgment in this action dated March 26, 1982. The court required adjustment of district boundaries in Southwest Alaska to reduce the combined population variation between Districts 25 and 26 (11.5%).

The court suggested but did not require the transfer of Platinum and Goodnews Bay from District 25 to District 26. Such a transfer would be inadvisable since those two communities are socially and economically tied to the Bethel region and are geographically isolated from the District 26 communities by coastal mountains; the only transportation ties with Platinum and Goodnews Bay are via Bethel. These problems were expressly addressed by the Reapportionment Board. See Plaintiff's Exhibit 2, p. 16. In addition, the two communities are in the Calista Corporation region whereas their placement in District 26 would situate them in a district comprised of the Bristol Bay Native Corporation and Aleut Corporation regions. See Plaintiff's Exhibit 13.

Instead, the Governor will accomplish the required adjustment by means of the movement of Tuluksak from District 25 to District 24 and the movement of the Lake Iliamna/Lake Clark region (Igiugig, Iliamna, Kokhanok, Newhalen, Nondalton, Pedro Bay) from District 24 into District 26. The Lake Iliamna/Lake Clark region was originally included in District 24 to avoid the excessive overpopulation that would be caused in District 26.



ATTORNEY GENERAL STATE OF ALASKA
STATE CAPITOL
POUCH K, JUNEAU ALASKA 99811
PHONE 465-3600

Socially and economically, however, the communities are tied to Bristol Bay, sharing the same fish stocks, communication links and transportation networks. The residents of the region were the most vociferous of all in their objection to their placement in District 24; there were numerous phone calls, letters, telegrams and petitions demanding their inclusion in District 26 rather than District 24.

The adjustment will be accomplished as follows:

A. The population of District 25 will be reduced by placing Tuluksak in District 24. The relevant enumeration districts (ED) and populations are ED 0292 (Tuluksak, pop. 236) and ED 0344 (Tuluksak area, pop. 0). The population of District 25 will become 9,449 with a variance of +2.96%.

B. The population of District 24 will be changed by the inclusion of Tuluksak (236) and the movement of the Lake Iliamna/Lake Clark region into District 26. The relevant enumeration districts in the Lake Iliamna/Lake Clark region are EDs 0475, 0476, 0478, 0479, 0480, 0481, 0482, 0515, 0516B, 0522A, 0522B, 0522C and 0523; they have a total population of 530. The population of District 24 will become 8,920 with a variance of -2.79%.

C. The population of District 26 will be increased, by the inclusion of the Lake Iliamna/Lake Clark region, by 530. The population will become 9,157.61 with a variance of -.2%.

With this adjustment, the maximum combined variance for the state will be as follows:

| | |
|---|---|
| District 4 (Juneau) | + 5.34% |
| District 16 (Matanuska-Susitna) | - 3.87% |
| | 9.21% |

This notice has been reviewed by all the members of the Reapportionment Board. The board members expressed their unani-

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ATTORNEY GENERAL, STATE OF ALASKA
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8. In addition, by use of address lists provided by the military branches, Dr. Kruse was able to determine, with precision, how many non-resident servicemembers and dependents live in each off-base enumeration district. The following numbers of non-resident servicemembers and dependents were deducted from off-base enumeration district populations in the listed areas:

| | |
|---|---|
| Anchorage | 4,678.5 |
| Fairbanks | 382.1 |
| Matanuska-Susitna | 41.4 |
| Delta Junction | 229.9 |

See Exhibit 2, Table II.

E. Military Bases Treated by the Governor

1. The Governor deducted from the reapportionment population base those numbers of non-resident military personnel and dependents who resided at or near the seven largest military installations in Alaska: Elmendorf Air Force Base, Ft. Richardson, Eielson Air Force Base, Ft. Wainwright, Ft. Greeley, Kodiak Coast Guard Station and Adak Naval Station.

2. There were approximately 2,067 non-resident military personnel at smaller installatinos on the Aleutians, in Bristol Bay, in interior Alaska and in Southeast Alaska. The largest numbers of non-residents were at Shemya and King Salmon in District 26 (851), Galena in District 24 (259), Juneau (195), Sitka (137), Ketchikan (133) and Clear in District 17 (100).

3. Had all these numbers of non-resident military, and those at other locations not listed in the preceeding paragraph, been deducted from the population base, that population base would have become 367,050 and the ideal district size would have become 9,176. See Appendix I, attached hereto.

4. Under this scheme, the most overpopulated district would be district 25 with 9,684 persons (+5.53%); the most underpopulated district would be district 26 with 8,628 persons

discretion cannot be disturbed unless it lacks any rational basis.

2. It was reasonable and not arbitrary to exclude identifiable non-resident military personnel and dependents from the reapportionment population base while including non-identifiable members of other groups. The rights of military personnel and dependents to due process and equal protection were not violated. Groh v. Egan at 870-871.

3. It was reasonable and not arbitrary for the Governor to forego study of military at smaller, remote installations in view of the demonstrably small impact their potential non-residency would have on the reapportionment populations of the individual districts.

4. It was reasonable and not arbitrary to exclude non-resident military dependents based upon answers to survey questions put to their parents or spouses. Such a procedure did not violate the dependents' rights to due process and equal protection.

5. The survey utilized by the Governor to determine the proportion of non-residents among military personnel and dependents was a reasonable and constitutional device which accurately identified that proportion of military personnel and dependents who neither intend to make Alaska their domicil nor register to vote in Alaska, the two key criteria identified by the Alaska Supreme Court. Groh v. Egan at 873, text and n. 36.

6. Since military personnel and dependents are in Alaska under legal compulsion, it was reasonable and constitutional to inquire in the survey about their intent to make a home in Alaska at a time when they had the freedom to choose where they would live, i.e. at the time of retirement or discharge. See RESTATEMENT (SECOND) OF CONFLICT OF LAWS, Section 12, Illustration 3 and Comment i; Section 17, Comment d and Illustrations 1, 2, 7 and 8; Section 18, Comment b (cont.); Section 19, Illustrations 1 and 2. See also Groh v. Egan at 871-872, n. 34.

7. Alaska Constitution article VI, section 6 requires that election districts be "compact". It does not require that the districts be the most compact that could possibly be devised; considerations of population equality, socio-economic integration, geographic barriers and municipal boundaries may militate against the most compact configuration. The goal to be achieved by the compactness requirement is effective legislative representation, which occurs when persons and communities with substantially like backgrounds and interests, usually but not always in a single region, are joined in a political unit to elect the person of their choice. Effective transportation and communication systems may make a far-flung district functionally compact, especially when the residents of the district have common interests and take advantage of the transportation and communications systems to develop their policy positions and make their views known to their legislator.

8. District 2 does not violate the requirement of compactness.

9. Alaska Constitution article VI, section 6 requires that a district "contain as nearly as practicable a relatively integrated socio-economic area." The concept embodies a number of interrelated components, including economic base, ethnic composition, governmental boundaries, community size, transportation and communication links, and lifestyle. The reapportionment process requires a balancing of these components; one may be deemed predominant while another may be subordinated. As well, the socio-economic factors may be subordinated to the consideration of population equality with another district. The balance is to be struck by the Governor and will be sustained unless it lacks any rational basis. Groh v. Egan at 866.

10. Socio-economic integration does not require that regular social and economic interactions or transactions occur between the communities of a district, although such occurrences

are indicia of socio-economic integration. Integration of social or economic interests, as distinguished from integration of social or economic systems, is all that is required. Integration of interests alone has been the basis of many districts formed at and since the Alaska Constitutional Convention. See e.g., the discussion of the placement of the community of Livengood in Minutes, Alaska Constitutional Convention at 1933-1939, 1941. See, also, the comments of Delegate Hellenthal in Minutes, Alaska Constitutional Convention at 1872. Integration of interests was the basis of the North Slope - Kotzebue and Yukon River districts drawn by the Alaska Supreme Court in Egan v. Hammond, 502 P.2d 586 (Alaska 1972); there was, in those districts, no integration of social or economic systems across those vast areas.

11. The inclusion of Cordova in a district with small Inside Passage communities with identity or similarity of interests in fishing, forest management, ferry service, air service and other issues does not violate the constitutional requirement of socio-economic integration.

The Governor shall submit a form of judgment in conformity with these findings and conclusions.

DATED at Anchorage, Alaska this _____ day of March, 1982.

Daniel A. Moore, Jr.
Superior Court Judge

## APPENDIX I

### ADDITIONAL EXCLUSIONS ASSUMING PLAINTIFF'S FIGURES FROM EXHIBIT 4

| CENSUS DIVISION | DISTRICT | MILITARY POPULATION | NON-RESIDENT FACTOR | ADDITIONAL NUMBER TO EXCLUDE |
|---|---|---|---|---|
| Aleutians & Bristol Bay | 26 | See attached sheet* | .91 | 851.39 |
| Angoon | 2 | 3 (CG) | .71 | 2.13 |
| Barrow | 22 | 17 (NV) | .91 | 15.47 |
| Bethel | 25 | 15 (U.S.A.F.) | .91 | 13.65 |
| Cordova | 2 | 54 (CG) | .71 | 38.34 |
| Juneau | 4 | 275 (CG) | .71 | 195.25 |
| Kenai-Cook Inlet | 5 | 55 (CG) | .71 | 39.05 |
| Ketchikan | 1 | 188 (CG) | .71 | 133.48 |
| Kobuk | 22 | 17 (U.S.A.F.) | .91 | 15.47 |
| Kuskokwim | 24 | 55 (U.S.A.F.) | .91 | 50.05 |
| Mat-Su | 16 | 105.6 (Army) (See attached sheet**) | .78 | 82.37 |
| Nome | 23 | 41 (U.S.A.F.) | .91 | 37.31 |
| Seward | 6 | 15 (CG) | .71 | 10.65 |
| Sitka | 3 | 193 (CG) | .71 | 137.03 |
| Skagway-Yakutat | 2 | 12 (CG) | .71 | 8.52 |
| Upper Yukon | 24 | 28 (U.S.A.F.) | .91 | 25.48 |
| Valdez-Chitina Whittier | 6 | 42 (CG) | .71 | 29.82 |
| Wade Hampton | 23 | 13 (U.S.A.F.) | .91 | 11.83 |
| Wrangell-Petersburg | 1 | 14 (CG) | .71 | 9.94 |
| Yukon-Koyukuk (Part) | 17 | 127 (Clear-U.S.A.F.) | .79 | 100.33 |
| Yukon-Koyakuk (Part) | 24 | 285 (U.S.A.F.) | .91 | 259.35 |
| | | Tot Additional Exclusion | | 2,066.91 |

31,363.8 - military already excluded
\+ 2,066.91 - additional exclusion
33,430.71

400,481 - 1980 statewide population
\- 33,430.71 - non-resident military and dependents
367,050.29 ÷ 40 = 9,176.2 Ideal district size.

ATTACHMENT TO APPENDIX I

ADDITIONAL EXCLUSION FOR ALEUTIAN ISLANDS-
BRISTOL BAY CENSUS DIVISIONS
Assuming Plaintiff's Figures (Exhibit 4)

| | |
|---|---|
| 2175 | Aleutian Islands Census Division - Exhibit 4 |
| x.91 | non-resident factor - Exhibit 1, Table 9 |
| 1979.25 | non-resident active duty |
| | |
| 3315 | total military & dependents at Adak - 1980 Census |
| -1610 | military at Adak - Exhibit 1, Table 9 |
| 1705 | dependents at Adak |
| | |
| 1705 | dependents at Adak |
| x.87 | non-resident factor, dependents at Adak-Exhibit 1, Table 9 |
| 1483.35 | non-resident dependents at Adak |
| | |
| 1483.35 | non-resident dependents on Aleutians & Bristol Bay |
| +1979.25 | non-resident military on Aleutians |
| 3462.6 | |
| | |
| 369 | military - Bristol Bay Census Division - Exhibit 4 |
| x.91 | non-resident factor - Exhibit 1, Table 9 |
| 335.79 | non-resident military Bristol Bay |
| | |
| 3798.39 | total non-resident military & dependents on Aleutians & Bristol Bay |
| | |
| 3798.39 | number that should have been excluded |
| -2947.00 | number actually excluded - Exhibit 2, Table II |
| 851.39 | additional number required to be excluded |

** Of the 147 persons reported in Alaska Population Overview (Exhibit 4) to reside in the Matanuska-Susitna Census Division, 41.4 were previously deducted by the Governor. See Exhibit 2, Table [illegible].

APPENDIX II

HOUSE DISTRICT VARIANCE
Assuming Plaintiff's Figures (Exhibit 4)

(Ideal District Size 9,176.2)

| District | Population | Additional Exclusion | New Population | Variance |
|---|---|---|---|---|
| 1. | 17,940 | 143.42 | 17,796.58 (8,898.29) | -3.03% |
| 2. | 9,301 | 48.99 | 9,252.01 | + .8% |
| 3. | 9,266 | 137.03 | 9,128.97 | - .5% |
| 4. | 19,528 | 195.25 | 19,332.75 (9,666.375) | +5.34% |
| 5. | 19,068 | 39.05 | 19,028.95 (9,514.475) | +3.66% |
| 6. | 9,267 | 40.47 | 9,226.53 | + .5% |
| 7. | 8,853.2 | | | -3.51% |
| 8. | 18,202.1 (9,101.05) | | | - .8% |
| 9. | 18,004.7 (9,002.35) | | | -1.9% |
| 10. | 17,685.7 (8,842.85) | | | -3.63% |
| 11. | 17,957.8 (8,978.9) | | | -2.15% |
| 12. | 18,170 (9,085) | | | -1.0% |
| 13. | 18.907.5 (9,453.75) | | | +3.02% |
| 14. | 19,031.5 (9,515.75) | | | +3.7% |
| 15. | 18,560.7 (9,280.35) | | | +1.13% |
| 16. | 17,724.6 | 82.37 | 17,642.23 (8,821.115) | -3.87% |
| 17. | 9,111.9 | 100.33 | 9,011.57 | -1.79% |
| 18. | 9,300 | | | +1.35% |
| 19. | 8,934.3 | | | -2.63% |
| 20. | 18,319.7 (9,159.85) | | | - .18% |
| 21. | 9,247.1 | | | + .77% |
| 22. | 9,030 | 30.94 | 8,999.06 | -1.93% |
| 23. | 9,388 | 49.14 | 9,338.86 | +1.77% |
| 24. | 9,549 | 334.88 | 9,214.12 | + .4% |
| 25. | 9,698 | 13.65 | 9,684.35 | +5.53% |
| 26. | 9,479 | 851.39 | 8,627.61 | -5.97% |
| 27. | 9,592.4 | | | +4.53% |

| | | |
|---|---|---|
| Most overpopulated - Dist. 25 - Bethel | 9,684.35 | +5.53% |
| Most underpopulated - Dist 26 - Bristol Bay Aleutians | 8,627.61 | -5.97% |
| Total Combined Variance | | 11.50% |

Judge Souter

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT

FILED in the Trial Courts
State of Alaska, Third District
OCT 12 1983
CLERK OF TRIAL COURTS
By: Deputy Clerk

MARILYN CARPENTER,

Plaintiff,

vs.

JAY S. HAMMOND,

Defendant.

Case No. 3AN-81-5839 CI

ORDER

Having reviewed the opinion of the Alaska Supreme Court in this case, together with the applicable constitutional provisions and the arguments presented by the parties:

IT IS HEREBY ORDERED that:

1. This case is remanded to the Governor of the State of Alaska, who, after being advised by the Reapportionment Board, shall issue, no later than February 3, 1984, a revised final Proclamation of Reapportionment in conformity with the opinion of the Alaska Supreme Court which was issued in this case on July 22, 1983.

2. The revised final Proclamation of Reapportionment shall, in a manner consistent with the federal and state constitutional requirements of equal representation, but with the fewest possible changes in the final Reapportionment Plan as approved by the Alaska Supreme Court in this case, cause Cordova to be placed in a contiguous, compact and relatively integrated socio-economic election district and cause House District 2 to be transformed into such an election district.

3. The revised final Proclamation of Reapportionment shall utilize the "indefinite intention" test in determining the residency of military members in any election

districts whose boundaries must be changed in order to accomplish the necessary changes regarding Cordova and District 2, and it shall not utilize any amendments to the most recent federal decennial census which were issued after the initial final decision which was entered by the Superior Court in this case on March 26, 1982.

4. The Reapportionment Board shall meet as soon as practicable, hold such public hearings as it deems appropriate and present the Governor with a proposed amended final Proclamation of Reapportionment no later than January 3, 1984, unless otherwise ordered by the Governor. The Reapportionment Board which provided the recommendations which formed the basis for Governor Hammond's Proclamation of Reapportionment on July 24, 1981 remains in existence and may be used by Governor Sheffield. However, Governor Sheffield may, in his discretion, appoint a new Reapportionment Board to serve in the place and stead of the existing one.

5. This court shall retain continuing jurisdiction in this case for the purpose of resolving such disputes as might hereafter be properly submitted to it regarding the reapportionment proceedings at issue, it being this court's intention not to entertain any but the most extraordinary of motions in this case until the revised final Proclamation of Reapportionment has been issued.

ENTERED this 12th day of October, 1983.

Milton A. Souter
MILTON A. SOUTER
SUPERIOR COURT JUDGE

I certify that on 10/12/83 at 4:00 p.m., I personally delivered a copy of said Order to the following:

Holli Ploog
Jonathan B. Rubini

Priscilla Brown
Secretary to Judge Souter

I Certify that on 10-13-83 [illegible] Timothy A. McKeever

Priscilla Brown
[illegible]

ORDER ESTABLISHING AN INTERIM REAPPORTIONMENT PLAN FOR 1972 LEGISLATIVE ELECTIONS

This Court declared the Reapportionment and Redistricting Proclamation dated December 30, 1971, unconstitutional by its Decision and Order entered May 26, 1972. Pursuant to that Decision and Order, the Court appointed Dr. George W. Rogers and William H. Scott Masters to assist it in fashioning an interim reapportionment plan for the 1972 Alaska Legislative Elections.[1]

The Court, on May 26, 1972 gave the Masters the following written instructions:

1. By use of the official census of 1970, you should establish a population base for the State of Alaska. This population base should include military personnel who were enumerated in the 1970 Census.

2. You should make an inquiry to determine whether or not the number of nonresident military personnel included in the 1970 Census can be determined. If a determination can be made, then you should subtract the number from the total which you have arrived at in paragraph 1 above. You should also state the methods in detail by which you arrived at this determination.

3. Once you have determined the population base, you should divide the same by 40. This will give you the ideal number of persons to be included in a single member House district. You should then divide the population base by 20 which will represent the ideal population for a single member Senate district.

4. You should then establish House and Senate election districts containing a number of persons as close to the formula as feasible.

5. In establishing House and Senate districts, an effort should be made to make the districts correspond, where feasible, with the approximate boundaries set out in the 1971 reapportionment plan. No designated seats will be established within a multi-member district if multi-member districts are established. In establishing House and Senate districts you should, wherever feasible, create a district of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area.

6. If there are any substantial deviations from the population norms, express, specific reasons should be set forth.

The Masters submitted a report on June 12, 1972. Thereafter, the Masters met with the Court on June 13, 1972, at which time the report was amended to reflect determinations made by the Court concerning the reapportionment plan.

The Court, now being fully advised in the premises, hereby makes and orders the following interim reapportionment plan for the 1972 legislative elections:

(1) By use of the Official Census of 1970, the Court determines that the total population base for the State of Alaska shall be 302,361. This figure includes the military population residing in the State of Alaska at the time of the Official Census of April, 1970. In the time available to the Court for the preparation of the interim plan, the Court could find no feasible method of excluding some or all of the military personnel from the total population base. Moreover, computations revealed that changes in representation under the interim plan due to the inclusion of military personnel were minimal.

1. We commend George W. Rogers, Professor of Economics at the University of Alaska, and Mr. William H. Scott, C.P.A., their legal assistant R. E. Hicks, and Mr. Richard Listowski, cartographic and statistical assistant, for the excellence of their performance in executing the Court's instructions.



1970 Census of
itan's, Alaska,
n: USGPO, 1970),

State of Alaska because of its differing climates, topography, ethnic composition, socio-economic interests and distribution of its relatively sparce population. However, under the mandate of various decisions of the United States Supreme Court, we make the following determinations and order:

1. The reapportionment plan proposed by the Governor of Alaska in his Proclamation of Reapportionment and Redistricting of December 30, 1971, is unconstitutional in that its overall reapportionment of the Senate and House of Representatives results in proposed election districts that do not contain as nearly equal population proportions as is practicable. Reynolds v. Sims, 377 U.S. 533, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964); Wade v. Nolan, 414 P.2d 689 (Alaska 1966). Under the Equal Protection and Supremacy Clause of the Constitution of the United States of America, the constitutional right to vote of every citizen of Alaska is protected against impermissible dilutions and impairments flowing from malapportionment of either the House of Representatives or the Senate. In order to effectuate this constitutionally protected right to vote, we are obliged to declare the reapportionment plan of December 30, 1971, invalid under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

2. To insure compliance with the Equal Protection Clause in regard to the forthcoming 1972 primary and general elections for the State Legislature this court must formulate an interim reapportionment and redistricting plan. Scott v. Germano, 381 U.S. 407, 85 S.Ct. 1525, 14 L.Ed.2d 477 (1965); Maryland Comm. for Fair Representation v. Tawes, 377 U.S. 656, 675–676, 84 S.Ct. 1429, 12 L.Ed.2d 595, 607 (1964). The Lieutenant Governor is to conduct the 1972 primary and general elections for the State Legislature pursuant to the interim reapportionment and redistricting plan which this court will adopt.

3. In order to fashion an interim plan this court will appoint one or more masters to assist it.

4. Upon receipt of the report of the master or masters, this court will consider the manner in which the House and Senate districts shall be reapportioned. This court will then proceed to adopt an interim plan of reapportionment which, as nearly as practicable, considering the allotted time, reflects the standards which have been made binding upon the states by the United States Supreme Court. Ely v. Klahr, 403 U.S. 108, 91 S.Ct. 1803, 29 L.Ed.2d 352 (1971); Reynolds v. Sims, 377 U.S. 533, 586, 84 S.Ct. 1362, 12 L.Ed.2d 506, 541 (1964).

5. In the event this court determines that the exigencies of the situation preclude the fashioning of an interim constitutional reapportionment plan by June 15, 1972, this court will enter a further order specifying the plan under which the Lieutenant Governor shall conduct the 1972 primary and general elections for the State Legislature, together with the dates that such elections will be held. Connor v. Johnson, 402 U.S. 690, 91 S.Ct. 1760, 29 L.Ed.2d 268 (1971).

6. A full opinion discussing and determining the issues which were raised in the petition and cross-petition will be filed in due course.

Dated at Juneau, Alaska, this 26th day of May, 1972.

George F. Boney
Chief Justice

Jay A. Rabinowitz
Associate Justice

Roger G. Connor
Associate Justice

Robert [illegible] Erwin
Associate Justice

Robert Boochever
Associate Justice

litigation of reapportionment plans in Alaska, would be an issue in the inevitable legal challenge to the amended Plan.

With the foregoing considerations in mind, the Proposed Order articulates three broad areas which may necessitate amendment to the Reapportionment Plan. First, the Carpenter decision specifically explicated the constitutional mandate that each district contain "as nearly as practicable a relatively integrated socio-economic area." Alaska Constitution, article VI, section 6. To implement the Carpenter decision, it is at least necessary to remove the Cordova area from District No. 2 and to include the area within another appropriate district. And, if the configurations of other districts must be modified to implement the Carpenter decision, all "new" districts must also conform to the recently articulated standards for social and economic integration. 3/

Second, relocation of the Cordova area will, in turn, harbor substantial implications with respect to the constitutional mandate to assure relatively equal population distribution among districts. See Groh v. Egan, 526 P.2d 863 (1974); White v. Regester, 412 U.S 758 (1973); cf. Kentopp v. Municipality of Anchorage, 652 P.2d 453 (Alaska 1982). The Cordova area contains approximately 2,250 residents, a number which constitutes more than 20% of the average district population. Removal of the Cordova area from District No. 2 will thus result in a substantial relative underpopulation (overrepresentation) for House District No. 2. Conversely, relocation of the Cordova area into House District No. 6 will result in the substantial underrepresentation of that district. See Affidavit of Rehfeld. To place Cordova within a

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3/ Indeed, if the socpe of the necessary amendment to the Reapportionment Plan is substantial, it is arguable that any qualified voter would have standing under article VI, section 11 to challenge the relative degree of social and economic integration of any district.

this right. In urging the people to adopt the Constitution, Madison said in No. 57 of *The Federalist:*

> "Who are to be the electors of the Fœderal Representatives? Not the rich more than the poor; not the learned more than the ignorant; not the haughty heirs of distinguished names, more than the humble sons of obscure and unpropitious fortune. The electors are to be the great body of the people of the United States. . . ." [47]

Readers surely could have fairly taken this to mean, "one person, one vote." Cf. *Gray* v. *Sanders*, 372 U. S. 368, 381. While it may not be possible to draw congressional districts with mathematical precision, that is no excuse for ignoring our Constitution's plain objective of making equal representation for equal numbers of people the fundamental goal for the House of Representatives. That is the high standard of justice and common sense which the Founders set for us.

*Reversed and remanded.*

MR. JUSTICE CLARK, concurring in part and dissenting in part.

Unfortunately I can join neither the opinion of the Court nor the dissent of my Brother HARLAN. It is true that the opening sentence of Art. I, § 2, of the Constitution provides that Representatives are to be chosen "by the People of the several States . . . ." However, in my view, Brother HARLAN has clearly demonstrated that both the historical background and language preclude a finding that Art. I, § 2, lays down the *ipse dixit* "one person, one vote" in congressional elections.

On the other hand, I agree with the majority that congressional districting is subject to judicial scrutiny. This

[47] The Federalist, No. 57 (Cooke ed. 1961), at 385.

376 U.S. 1 (1964)



Court has so held ever since *Smiley* v. *Holm*, 285 U. S. 355 (1932), which is buttressed by two companion cases, *Koenig* v. *Flynn*, 285 U. S. 375 (1932), and *Carroll* v. *Becker*, 285 U. S. 380 (1932). A majority of the Court in *Colegrove* v. *Green* felt, upon the authority of *Smiley*, that the complaint presented a justiciable controversy not reserved exclusively to Congress. *Colegrove* v. *Green*, 328 U. S. 549, 564, and 568, n. 3 (1946). Again, in *Baker* v. *Carr*, 369 U. S. 186, 232 (1962), the opinion of the Court recognized that *Smiley* "settled the issue in favor of justiciability of questions of congressional redistricting." I therefore cannot agree with Brother HARLAN that the supervisory power granted to Congress under Art. I, § 4, is the exclusive remedy.

I would examine the Georgia congressional districts against the requirements of the Equal Protection Clause of the Fourteenth Amendment. As my Brother BLACK said in his dissent in *Colegrove* v. *Green*, *supra*, the "equal protection clause of the Fourteenth Amendment forbids . . . discrimination. It does not permit the States to pick out certain qualified citizens or groups of citizens and deny them the right to vote at all. . . . No one would deny that the equal protection clause would also prohibit a law that would expressly give certain citizens a half-vote and others a full vote. . . . Such discriminatory legislation seems to me exactly the kind that the equal protection clause was intended to prohibit." At 569.

The trial court, however, did not pass upon the merits of the case, although it does appear that it did make a finding that the Fifth District of Georgia was "grossly out of balance" with other congressional districts of the State. Instead of proceeding on the merits, the court dismissed the case for lack of equity. I believe that the court erred in so doing. In my view we should therefore vacate this judgment and remand the case for a hearing

group interests, are permissible factors in attempting to justify disparities from population-based representation. Citizens, not history or economic interests, cast votes. Considerations of area alone provide an insufficient justification for deviations from the equal-population principle. Again, people, not land or trees or pastures, vote. Modern developments and improvements in transportation and communications make rather hollow, in the mid-1960's, most claims that deviations from population-based representation can validly be based solely on geographical considerations. Arguments for allowing such deviations in order to insure effective representation for sparsely settled areas and to prevent legislative districts from becoming so large that the availability of access of citizens to their representatives is impaired are today, for the most part, unconvincing.

A consideration that appears to be of more substance in justifying some deviations from population-based representation in state legislatures is that of insuring some voice to political subdivisions, as political subdivisions. Several factors make more than insubstantial claims that a State can rationally consider according political subdivisions some independent representation in at least one body of the state legislature, as long as the basic standard of equality of population among districts is maintained. Local governmental entities are frequently charged with various responsibilities incident to the operation of state government. In many States much of the legislature's activity involves the enactment of so-called local

Ordinance of 1787, in explicitly providing for population-based representation of those living in the Northwest Territory in their territorial legislatures, clearly implied that, as early as the year of the birth of our federal system, the proper basis of legislative representation was regarded as being population.



legislation, directed only to the concerns of particular political subdivisions. And a State may legitimately desire to construct districts along political subdivision lines to deter the possibilities of gerrymandering. However, permitting deviations from population-based representation does not mean that each local governmental unit or political subdivision can be given separate representation, regardless of population. Carried too far, a scheme of giving at least one seat in one house to each political subdivision (for example, to each county) could easily result, in many States, in a total subversion of the equal-population principle in that legislative body.[62] This would be especially true in a State where the number of counties is large and many of them are sparsely populated, and the number of seats in the legislative body being apportioned does not significantly exceed the number of counties.[63] Such a result, we conclude, would be constitutionally impermissible. And careful judicial scrutiny must of course be given, in evaluating state apportionment schemes, to the character as well as the degree of deviations from a strict population basis. But, if, even as a result of a clearly rational state policy of according some legislative representation to political subdivisions, population is submerged as the controlling consideration in the apportionment of seats in the particular legislative body, then the right of all of the State's citizens to cast an effective and adequately weighted vote would be unconstitutionally impaired.

[62] See McKay, Political Thickets and Crazy Quilts: Reapportionment and Equal Protection, 61 Mich. L. Rev. 645, 698-699 (1963).

[63] Determining the size of its legislative bodies is of course a matter within the discretion of each individual State. Nothing in this opinion should be read as indicating that there are any federal constitutional maximums or minimums on the size of state legislative bodies.

ter in a free and democratic society. Especially since the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized. Almost a century ago, in *Yick Wo* v. *Hopkins*, 118 U. S. 356, the Court referred to "the political franchise of voting" as "a fundamental political right, because preservative of all rights." 118 U. S., at 370.

Legislators represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests. As long as ours is a representative form of government, and our legislatures are those instruments of government elected directly by and directly representative of the people, the right to elect legislators in a free and unimpaired fashion is a bedrock of our political system. It could hardly be gainsaid that a constitutional claim had been asserted by an allegation that certain otherwise qualified voters had been entirely prohibited from voting for members of their state legislature. And, if a State should provide that the votes of citizens in one part of the State should be given two times, or five times, or 10 times the weight of votes of citizens in another part of the State, it could hardly be contended that the right to vote of those residing in the disfavored areas had not been effectively diluted. It would appear extraordinary to suggest that a State could be constitutionally permitted to enact a law providing that certain of the State's voters could vote two, five, or 10 times for their legislative representatives, while voters living elsewhere could vote only once. And it is inconceivable that a state law to the effect that, in counting votes for legislators, the votes of citizens in one part of the State would be multiplied by two, five, or 10, while the votes of persons in another area would be counted only at face value, could be constitutionally sustainable. Of course, the effect of



state legislative districting schemes which give the same number of representatives to unequal numbers of constituents is identical.[60] Overweighting and overvaluation of the votes of those living here has the certain effect of dilution and undervaluation of the votes of those living there. The resulting discrimination against those individual voters living in disfavored areas is easily demonstrable mathematically. Their right to vote is simply not the same right to vote as that of those living in a favored part of the State. Two, five, or 10 of them must vote before the effect of their voting is equivalent to that of their favored neighbor. Weighting the votes of citizens differently, by any method or means, merely because of where they happen to reside, hardly seems justifiable. One must be ever aware that the Constitution forbids "sophisticated as well as simple-minded modes of discrimination." *Lane* v. *Wilson*, 307 U. S. 268, 275; *Gomillion* v. *Lightfoot*, 364 U. S. 339, 342. As we stated in *Wesberry* v. *Sanders*, *supra*:

> "We do not believe that the Framers of the Constitution intended to permit the same vote-diluting discrimination to be accomplished through the device of districts containing widely varied numbers of inhabitants. To say that a vote is worth

[60] As stated by MR. JUSTICE BLACK, dissenting, in *Colegrove* v. *Green*, 328 U. S. 549, 569-571:

"No one would deny that the equal protection clause would . . . prohibit a law that would expressly give certain citizens a half-vote and others a full vote. . . . [T]he constitutionally guaranteed right to vote and the right to have one's vote counted clearly imply the policy that state election systems, no matter what their form, should be designed to give approximately equal weight to each vote cast. . . . [A] state legislature cannot deny eligible voters the right to vote for Congressmen and the right to have their vote counted. It can no more destroy the effectiveness of their vote in part and no more accomplish this in the name of 'apportionment' than under any other name."

more in one district than in another would . . . run counter to our fundamental ideas of democratic government . . . ."[41]

State legislatures are, historically, the fountainhead of representative government in this country. A number of them have their roots in colonial times, and substantially antedate the creation of our Nation and our Federal Government. In fact, the first formal stirrings of American political independence are to be found, in large part, in the views and actions of several of the colonial legislative bodies. With the birth of our National Government, and the adoption and ratification of the Federal

[41] 376 U. S., at 8. See also *id.*, at 17, quoting from James Wilson, a delegate to the Constitutional Convention and later an Associate Justice of this Court, who stated:

"[A]ll elections ought to be equal. Elections are equal, when a given number of citizens, in one part of the state, choose as many representatives, as are chosen by the same number of citizens, in any other part of the state. In this manner, the proportion of the representatives and of the constituents will remain invariably the same." 2 The Works of James Wilson (Andrews ed. 1896) 15.

And, as stated by MR. JUSTICE DOUGLAS, dissenting, in *MacDougall v. Green*, 335 U. S., at 288, 290:

"[A] regulation . . . [which] discriminates against the residents of the populous counties of the state in favor of rural sections . . . lacks the equality to which the exercise of political rights is entitled under the Fourteenth Amendment.

"Free and honest elections are the very foundation of our republican form of government. . . . Discrimination against any group or class of citizens in the exercise of these constitutionally protected rights of citizenship deprives the electoral process of integrity. . . .

"None would deny that a state law giving some citizens twice the vote of other citizens in either the primary or general election would lack that equality which the Fourteenth Amendment guarantees. . . . The theme of the Constitution is equality among citizens in the exercise of their political rights. 'The notion that one group can be granted greater voting strength than another is hostile to our standards for popular representative government.'



Constitution, state legislatures retained a most important place in our Nation's governmental structure. But representative government is in essence self-government through the medium of elected representatives of the people, and each and every citizen has an inalienable right to full and effective participation in the political processes of his State's legislative bodies. Most citizens can achieve this participation only as qualified voters through the election of legislators to represent them. Full and effective participation by all citizens in state government requires, therefore, that each citizen have an equally effective voice in the election of members of his state legislature. Modern and viable state government needs, and the Constitution demands, no less.

Logically, in a society ostensibly grounded on representative government, it would seem reasonable that a majority of the people of a State could elect a majority of that State's legislators. To conclude differently, and to sanction minority control of state legislative bodies, would appear to deny majority rights in a way that far surpasses any possible denial of minority rights that might otherwise be thought to result. Since legislatures are responsible for enacting laws by which all citizens are to be governed, they should be bodies which are collectively responsive to the popular will. And the concept of equal protection has been traditionally viewed as requiring the uniform treatment of persons standing in the same relation to the governmental action questioned or challenged. With respect to the allocation of legislative representation, all voters, as citizens of a State, stand in the same relation regardless of where they live. Any suggested criteria for the differentiation of citizens are insufficient to justify any discrimination, as to the weight of their votes, unless relevant to the permissible purposes of legislative apportionment. Since the achieving of fair and effective representation for all citi-

Kenai Clarion Jan 11, 1984

# Districting options unpopular

## Governor's board hears views on reapportionment

By JOHN MARRS
Editor

If the rest of Southcentral and Southeastern Alaska were as easy to please as English Bay and Port Graham, the governor's special reapportionment board would have few problems.

Testimony during a teleconference conducted over the state's conference network Wednesday evening indicated no consensus in English Bay or Port Graham for or against whether the two southern peninsula villages were put in one voting district or another.

The rest of the 30 people who spoke told

See BOARD, Page 14

# ...Board hearing

Continued from Page 1

the board they didn't like the pending reapportionment plans.

Half of those who spoke urged the board to revive a once-proposed but abandoned plan to create one large Senate district encircling Anchorage with Nikiski, Seward, Valdez, Cordova, Whittier and the Matanuska Valley. The area — not counting Nikiski — is roughly the same as the pre-1981 Senate district represented by Sen. Jay Kerttula, D-Palmer.

The possibility of switching English Bay and Port Graham from a House District for Prince William Sound to one for the Kenai Peninsula was the only change actually mentioned as a possibility by the board.

The change is contemplated in the board's last public report, and Chairman Willie Hensley and board member Mary Nordale mentioned it Tuesday in discussions with citizens who were testifying. The change, if made when the board meets today, would move the Chitna and McCarthy areas into House District 6 (Valdez-Seward-Cordova) and put English Bay and Port Graham back in House District 5, the peninsula's main voting district.

Walter Maganik Sr., president of the Port Graham Village Council, urged the board to "leave us alone," but he also said a village vote came out 21 in favor of moving to the new Prince William Sound District to 29 in favor of staying put.

Rep. Milo Fritz, R-Anchor Point, speaking from Juneau, said he spoke earlier Tuesday with Vince Kvasnikoff, an English Bay village leader, and was told that the people there couldn't make up their minds whether they would be better off one way than the other. He also asked that a board representative visit the village to talk about it.

Assemblywoman Karen McGahan of Nikiski, Dorothy Westphal of Sterling and Lois Irvin of Homer all protested the board's plan to put Nikiski with South Anchorage in a new House District 7.

Westphal also read a letter by Sharon Overman of Soldotna, president of the Central Peninsula Republican Women's Club, objecting to a plan that would cut the peninsula's representation in the Senate.

Two peninsula residents, Jack Warner and Louis Bernacardino of Seward, joined people from Whittier, Valdez, Cordova and the Mat-Su Borough in recommending that proposed House Districts 6, 7 and 16 be combined to form a Senate district with two seats. Similar to Kerttula's former district, the plan has been called the "Doughnut District" because of its shape.

The reapportionment board dropped the plan, originally raised by Kerttula, without comment at its last meetings in December. Tuesday night, Hensley said the idea had not found any support on the board.

The board has until Feb. 3 to report to the governor, who this week got a court extension to Feb. 17 for his report to Superior Court Judge Milton Souter.

Reapportionment Board Meets
Jan. 10th & 11th 9 A.M. Rm 123 Ak. office Bldg.

Teleconference
Jan 10th. 4:30-6:30 p.m.
Southcentral & S.E.

NEWS RELEASE

REAPPORTIONMENT BOARD ADOPTS HOUSE AND SENATE PLANS
December 19, 1983

FOR IMMEDIATE RELEASE

JUNEAU -- In order to make court-mandated revisions to the 1981 Reapportionment Plan, the newly appointed Reapportionment Board has tentatively adopted two redistricting plans for submission to the Governor. The Board, appointed by Governor Sheffield in October, is charged with presenting recommendations to him which shift the Cordova area from House District 2 in Southeast Alaska to a Southcentral district.

PLAN 1 - House Districts

Plan 1 utilizes the same data used by the 1981 Reapportionment Board in formulating their recommendations to former Governor Hammond. The Southeast revisions include separating Metlakatla and Annette Island from District 1 and Hoonah from District 3, to replace the Cordova area in District 2.

The Cordova area in Plan 1 is placed in a Prince William Sound district, District 6, which includes the communities of Tatitlek, Valdez, Seward, Hope, Cooper Landing and Moose Pass, Port Graham and English Bay are shifted back into House District 5, a two-member district that remains virtually the same with the exception of the inclusion of the Sterling area from proposed District 7.

The Nikishka area, formerly in House District 6, has been placed with South Anchorage into House District 7. This district includes the area from Klatt Road south along the New Seward Highway to Potter Creek, and all remaining area south of Potter Creek in the Municipality of Anchorage with the Nikishka area.

Modifications to District 8 in Plan 1 include extension of the southern boundary from DeArmoun Road to Potter Creek, and rather than following the New Seward Highway to Tudor Road, the boundary turns east at Dowling Road to Lake Otis Parkway and then north to Tudor Road.

District 9's boundaries remain unchanged. District 10's western boundary is revised to follow Arctic Boulevard from International Airport Road to Fireweed Lane, then west to Spenard Road and north to Chester Creek. This also becomes the new eastern boundary of District 11.

The remaining districts in Plan 1 are the same with the exception of a minor boundary change between House Districts 12 and 13 to shift a small trailer court into District 13. This change was made as a result of testimony received by the Board.

PLAN 1 - Senate Districts

In keeping with the Superior Court order to make as few changes as possible, the Board determined that the senate districts would remain unchanged in Plan 1.

PLAN 2 - House Districts

During the course of their deliberations, the Board identified several instances where the data used for the 1981 Plan contained

a reporting error. The principal error occurred in the reporting of the census data for the Eagle River area, where 1,414 persons were indavertantly excluded. In order to address the problem with the initial census data, Governor Sheffield asked that the Board provide him with a plan which uses the most accurate census data available. Under Plan 2, which utilizes the adjusted census data, the ideal population per house seat is increased from 9,176.2 in Plan 1 to 9,210.5 in Plan 2.

The proposal for revisions to House Districts 1, 2, 3, and 4 in Southeast Alaska, and House Districts 5 and 6 for the Prince William Sound and the Kenai Peninsula are the same in Plan 1 and Plan 2. The population variances change slightly because of the increase in the ideal population per seat.

Anchorage House District 7 in Plan 2 has been revised to address some concerns expressed to the Board during the past week. District 7 previously placed the Upper Hillside area with Nikishka in a single-member district. The revised District 7 places the area south of Klatt Road to the New Seward Highway, south along the New Seward Highway to Huffman Road, west along Huffman Road to the Old Seward Highway then south along the Old Seward Highway to DeArmound Road and east along DeArmoun Road to Rabbit Creek, with Nikishka. House District 8 is a two-member district including the Campbell Lake and Hillside areas. With only minor modifications the remainder of Plan 2 is the same as originally proposed.

PLAN 2 - Senate Districts

The Board has recommended that House District 5, a two-member district on the Kenai Peninsula, become a single-member

senate district. House Districts 6 and 7 will also become a single-member senate district. In an effort to make as few changes as possible the Board decided to retain the two-member senate districts in Anchorage as utilized in the 1981 Plan. House Districts 8 and 10 will be combined into a two-member senate district as will House Districts 9 and 11, House Districts 12 and 13, and House Districts 14 and 15.

The Board's staff will be completing a legal analysis of these proposals and other alternatives in preparation of submitting their recommendations to Governor Sheffield by mid-January. The Governor has given the Board an extension from January 3 to January 16 to present their recommendations to him.

Attached to this release is a statistical summary for House Districts in Plan 1 and Plan 2. Maps of the revised districts are also included as well as a map of the 1981 election districts in Anchorage.

Copies of this material may be obtained by contacting the Reapportionment Office in Juneau at 465-3538, the Regional Governor's Offices, and Legislative Information Offices.

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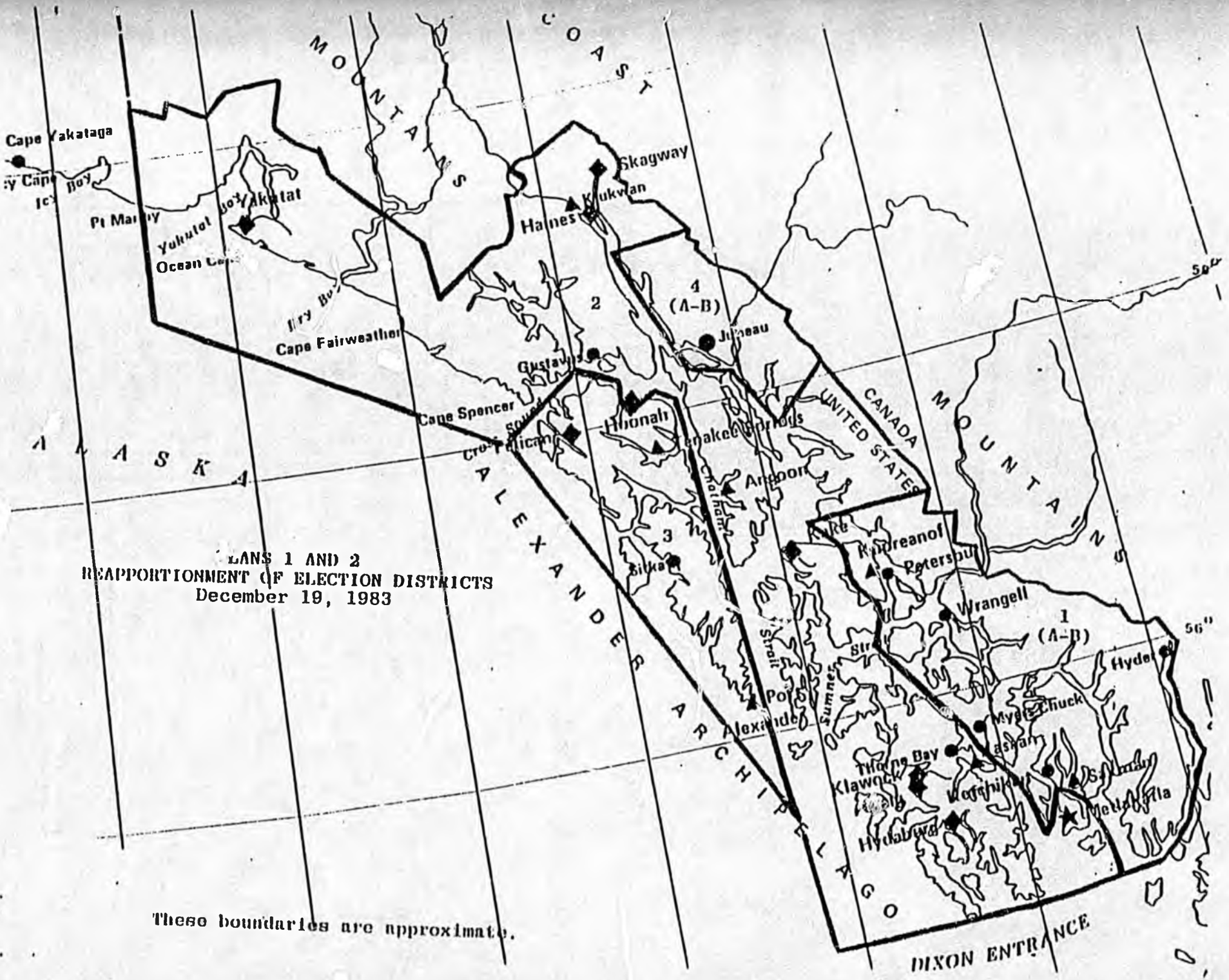
PLAN 1
REAPPORTIONMENT OF ELECTION DISTRICTS
STATISTICAL SUMMARY
HOUSE DISTRICTS
December 19, 1983

| | House District | Name | Population | Population Variance |
|---|---|---|---|---|
| * 1. | Seat A (2)<br>Seat B | Ketchikan-Wrangell-Petersburg | 16,601.58<br>(8,300.79/seat) | -9.5% |
| * 2. | (1) | Inside Passage | 8,924.35 | -2.7% |
| * 3. | (1) | Baranof-Chichagof | 8,448.97 | -7.9% |
| 4. | Seat A (2)<br>Seat B | Juneau | 19,332.75<br>(9,666.375/seat) | +5.34% |
| * 5. | Seat A (2)<br>Seat B | Kenai-Cook Inlet | 19,189.95<br>(9,594.975/seat) | +4.5% |
| * 6. | (1) | Prince William Sound | 8,589.19 | -6.4% |
| * 7. | (1) | North Kenai-South Anchorage | 9,109.9 | - .7% |
| * 8. | Seat A (2)<br>Seat B | Hillside | 18,269.4<br>(9,134.7/seat) | - .4% |
| 9. | Seat A (2)<br>Seat B | Sand Lake | 18,004.7<br>(9,002.35/seat) | -1.9% |
| | Seat A (2)<br>Seat B | Mid-town | 19,038.1<br>(9,519.05/seat) | +3.7% |
| *11. | Seat A (2)<br>Seat B | Westside | 18,960.4<br>(9,480.2/seat) | +3.3% |
| 12. | Seat A (2)<br>Seat B | Downtown | 18,170.0<br>(9,085/seat) | -1.0% |
| 13. | Seat A (2)<br>Seat B | Mountain View-University | 18,907.5<br>(9,453.75/seat) | +3.02% |
| 14. | Seat A (2)<br>Seat B | Muldoon | 19,031.5<br>(9,515.75/seat) | +3.7% |
| 15. | Seat A (2)<br>Seat B | Chugiak-Eagle River-Bases | 18,560.7<br>(9,280.35/seat) | +1.13% |
| 16. | Seat A (2)<br>Seat B | Matanuska-Susitna | 17,642.23<br>(8,821.115/seat) | -3.87% |

| House District | | Name | Population | Population Variance |
|---|---|---|---|---|
| 17. | (1) | Interior Highways | 9,011.57 | -1.8% |
| 18. | (1) | Southeast North Star Borough | 9,300.0 | +1.3% |
| 19. | (1) | Outer Fairbanks | 8,934.3 | -2.6% |
| 20. | Seat A (2)<br>Seat B | Fairbanks City | 18,319.7<br>(9,159.8/seat) | - .2% |
| 21. | (1) | West Fairbanks | 9,247.1 | + .3% |
| 22. | (1) | North Slope-Kotzebue | 8,999.06 | -1.9% |
| 23. | (1) | Norton Sound | 9,338.86 | +1.8% |
| 24. | (1) | Interior Rivers | 8,936.12 | -2.6% |
| 25. | (1) | Lower Kuskokwim | 9,432.35 | +2.8% |
| 26. | (1) | Bristol Bay-Aleutian Islands | 9,157.61 | - .2% |
| 27. | (1) | Kodiak-East Alaska Peninsula | 9,592.40 | +4.53% |
| | | TOTAL POPULATION | 367,050.29 | |
| | | (Less Non-Resident Military and Dependents) | | |

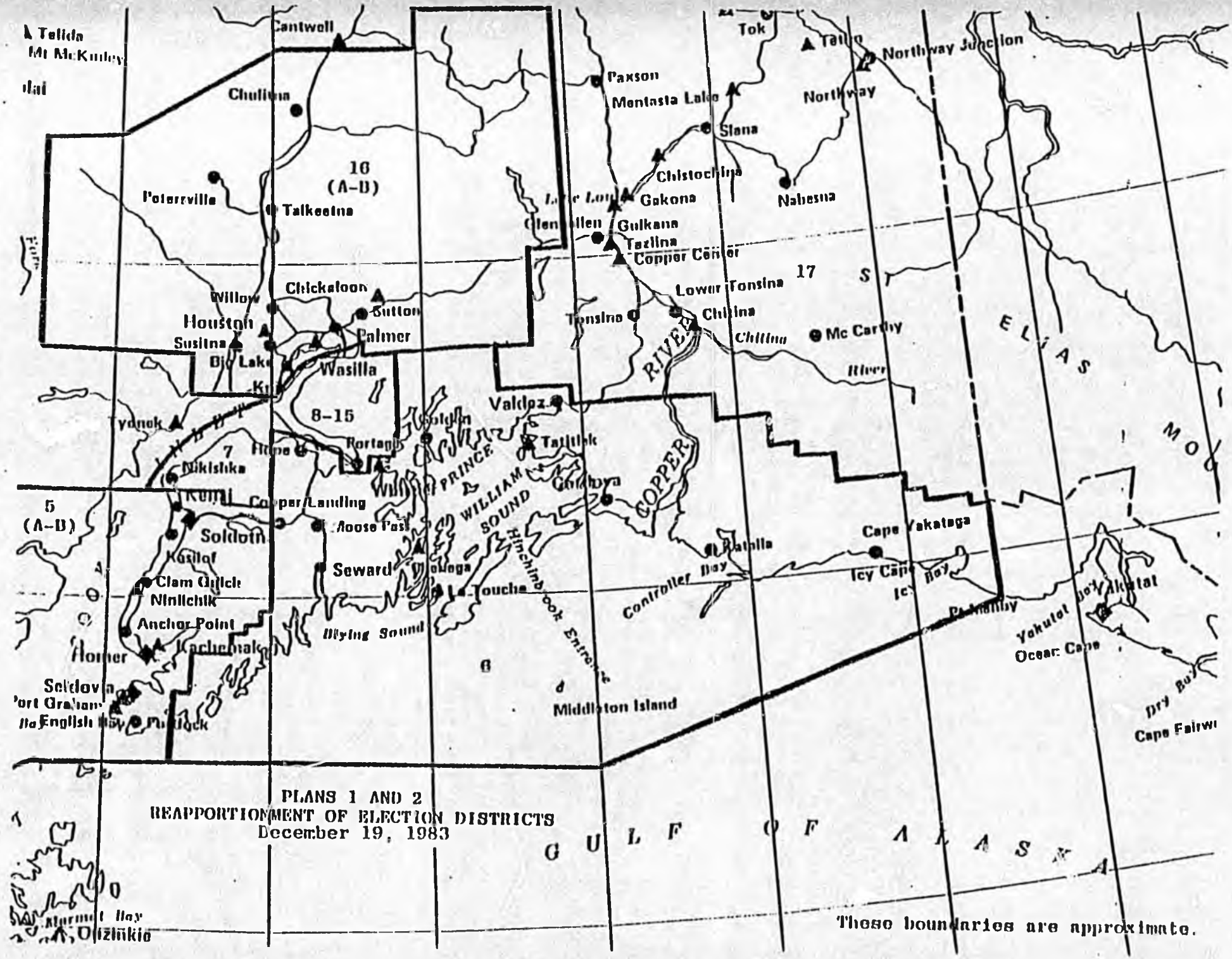
| | | | |
|---|---|---|---|
| Southeast Alaska | Maximum Overpopulation | +5.34% | District 4 |
| | Maximum Underpopulation | -9.5 % | District 1 |
| | Total Combined Variance | 14.84% | |
| Other Districts | Maximum Overpopulation | +4.53% | District 27 |
| | Maximum Underpopulation | -6.4 % | District 6 |
| | Total Combined Variance | 10.93% | |

*These districts were revised in order to make corrections to the 1981 Reapportionment Plan in accordance with Superior Court Judge Milton Souter's order dated October 12, 1983.




PLANS 1 AND 2
REAPPORTIONMENT OF ELECTION DISTRICTS
December 19, 1983

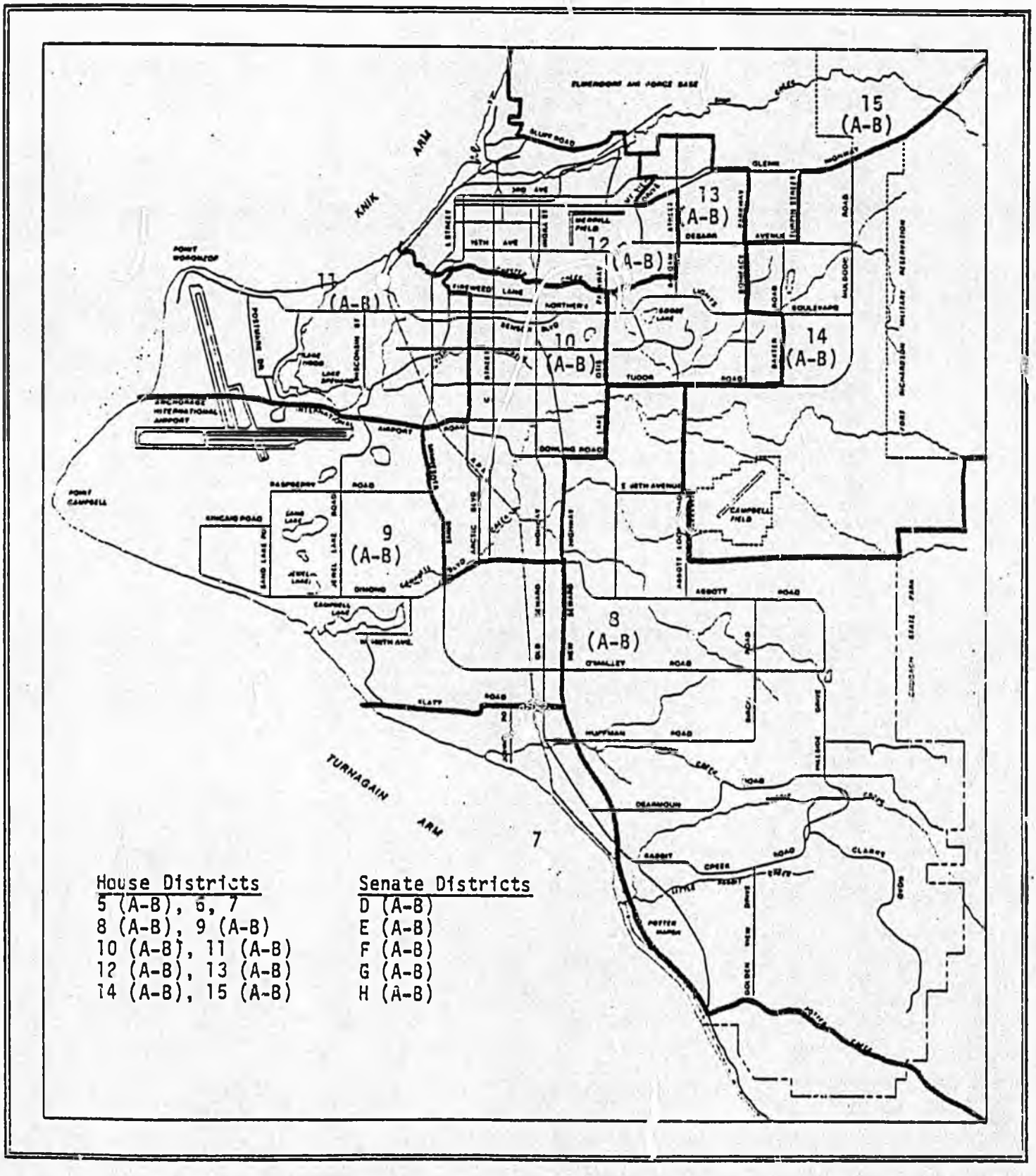
These boundaries are approximate.




PLANS 1 AND 2
REAPPORTIONMENT OF ELECTION DISTRICTS
December 19, 1983

These boundaries are approximate.

PLAN 1
ANCHORAGE ELECTION DISTRICTS
December 19, 1983




| House Districts | Senate Districts |
|---|---|
| 5 (A-B), 6, 7 | D (A-B) |
| 8 (A-B), 9 (A-B) | E (A-B) |
| 10 (A-B), 11 (A-B) | F (A-B) |
| 12 (A-B), 13 (A-B) | G (A-B) |
| 14 (A-B), 15 (A-B) | H (A-B) |

These boundaries are approximate.

PLAN 2
REAPPORTIONMENT OF ELECTION DISTRICTS
STATISTICAL SUMMARY
HOUSE DISTRICTS
December 19, 1983

| House District | | Name | Population | Population Variance |
|---|---|---|---|---|
| * 1. | Seat A (2)<br>Seat B | Ketchikan-Wrangell-Petersburg | 16,601.58<br>(8,300.79/seat) | -9.9% |
| * 2. | (1) | Inside Passage | 8,924.35 | -3.1% |
| * 3. | (1) | Baranof-Chichagof | 8,448.97 | -8.3% |
| 4. | Seat A (2)<br>Seat B | Juneau | 19,332.75<br>(9,666.375/seat) | +4.9% |
| * 5. | Seat A (2)<br>Seat B | Kenai-Cook Inlet | 19,189.95<br>(9,594.975/seat) | +4.2% |
| * 6. | (1) | Prince William Sound | 8,598.19 | -6.7% |
| * 7. | (1) | North Kenai-South Anchorage | 9,580.1 | +4.0% |
| * 8. | Seat A (2)<br>Seat B | Campbell-Hillside | 19,230.7<br>(9,615.35/seat) | +4.4% |
| * 9. | Seat A (2)<br>Seat B | Turnagain-Sand Lake | 19,155.9<br>(9,577.95/seat) | +4.0% |
| *10. | Seat A (2)<br>Seat B | Mid-town | 18,183.5<br>(9,091.75/seat) | -1.3% |
| *11. | Seat A (2)<br>Seat B | Spenard | 18,804.1<br>(9,402.05/seat) | +2.1% |
| *12. | Seat A (2)<br>Seat B | Downtown | 18,678.4<br>(9,339.2/seat) | +1.4% |
| *13. | Seat A (2)<br>Seat B | Elmendorf AFB-Mountain View | 19,173.1<br>(9,586.55/seat) | +4.[illegible]% |
| *14. | Seat A (2)<br>Seat B | South Muldoon | 18,265.4<br>(9,132.7/seat) | - .8% |
| *15. | Seat A (2)<br>Seat B | Chugiak-Eagle River-Ft. Richardson | 18,395<br>(9,197.5/seat) | - .1% |

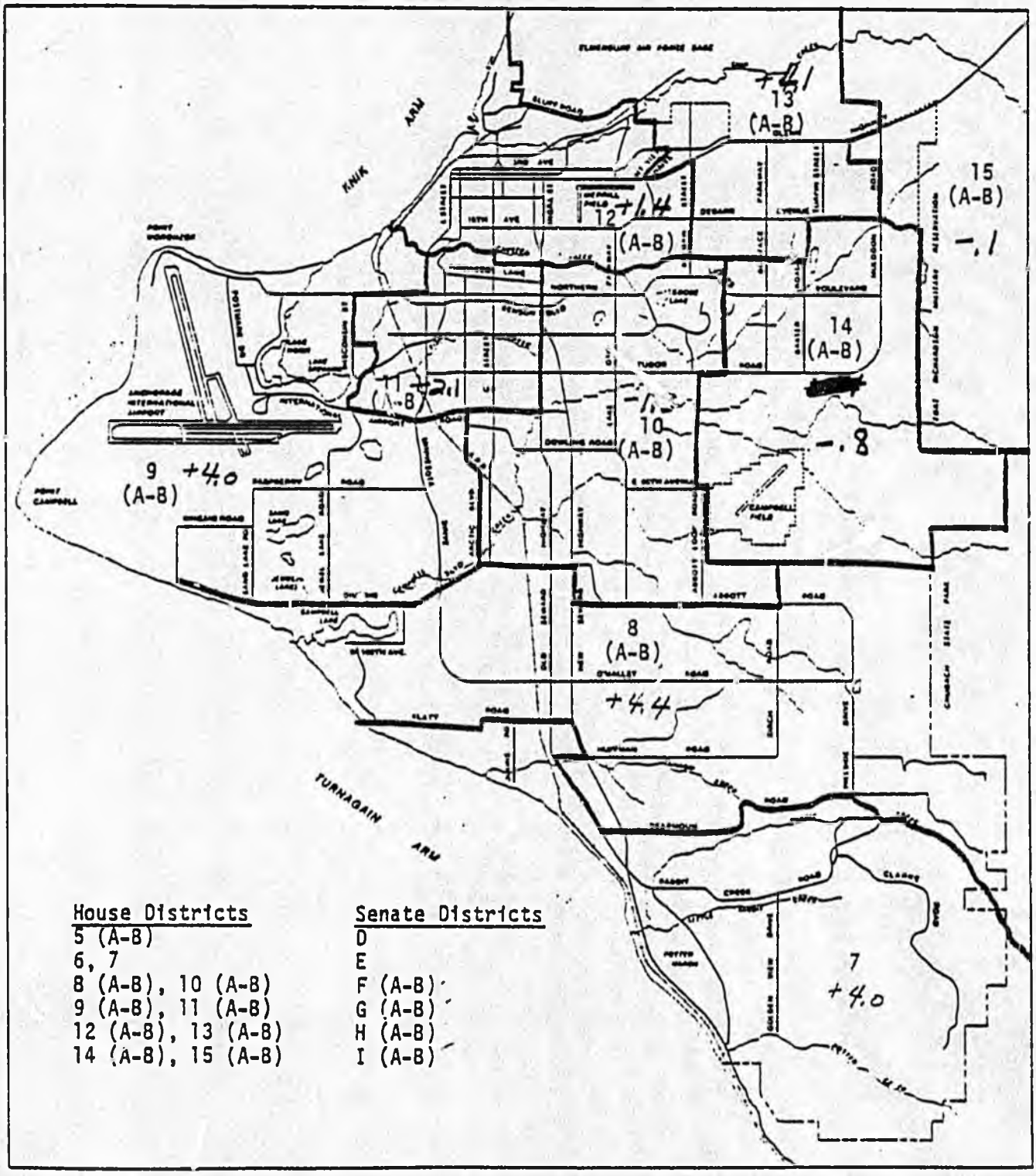
Rest of Alaska
155646 Ave = -0.6

| House District | | Name | Population | Population Variance |
|---|---|---|---|---|
| 16. | Seat A (2)<br>Seat B | Matanuska-Susitna | 17,692.23<br>(8,846.115/seat) | -3.9% |
| 17. | (1) | Interior Highways | 8,917.57 | -3.2% (-4.9) |
| 18. | (1) | Southeast North Star Borough | 9,300.0 | + .9% |
| 19. | (1) | Outer Fairbanks | 8,934.3 | -3.0% |
| 20. | Seat A (2)<br>Seat B | Fairbanks City | 18,319.7<br>(9,159.8/seat) | - .5% |
| 21. | (1) | West Fairbanks | 9,247.1 | + .4% |
| 22. | (1) | North Slope-Kotzebue | 8,999.06 | -2.3% |
| 23. | (1) | Norton Sound | 9,338.86 | +1.4% |
| 24. | (1) | Interior Rivers | 8,936.12 | -3.0% |
| 25. | (1) | Lower Kuskokwim | 9,432.35 | +2.4% |
| 26. | (1) | Bristol Bay-Aleutian Islands | 9,157.61 | - .6% |
| 27. | (1) | Kodiak-East Alaska Peninsula | 9,592.40 | +4.1% |
| | | TOTAL ADJUSTED POPULATION | 368,420.29 | |
| | | (Less Non-Resident Military and Dependents) | | |

| | | | |
|---|---|---|---|
| Southeast Alaska | Maximum Overpopulation | +4.9% | District 4 |
| | Maximum Underpopulation | -9.9% | District 1 |
| | Total Combined Variance | 14.8% | |
| Other Districts | Maximum Overpopulation | +4.4% | District 8 |
| | Maximum Underpopulation | -6.7% | District 6 |
| | Total Combined Variance | 11.1% | |

*Revisions were made in these districts in order to make corrections to the 1981 Reapportionment Plan in accordance with Superior Court Judge Milton Souter's order dated October 12, 1983, and includes technical corrections made to the 1980 census data.

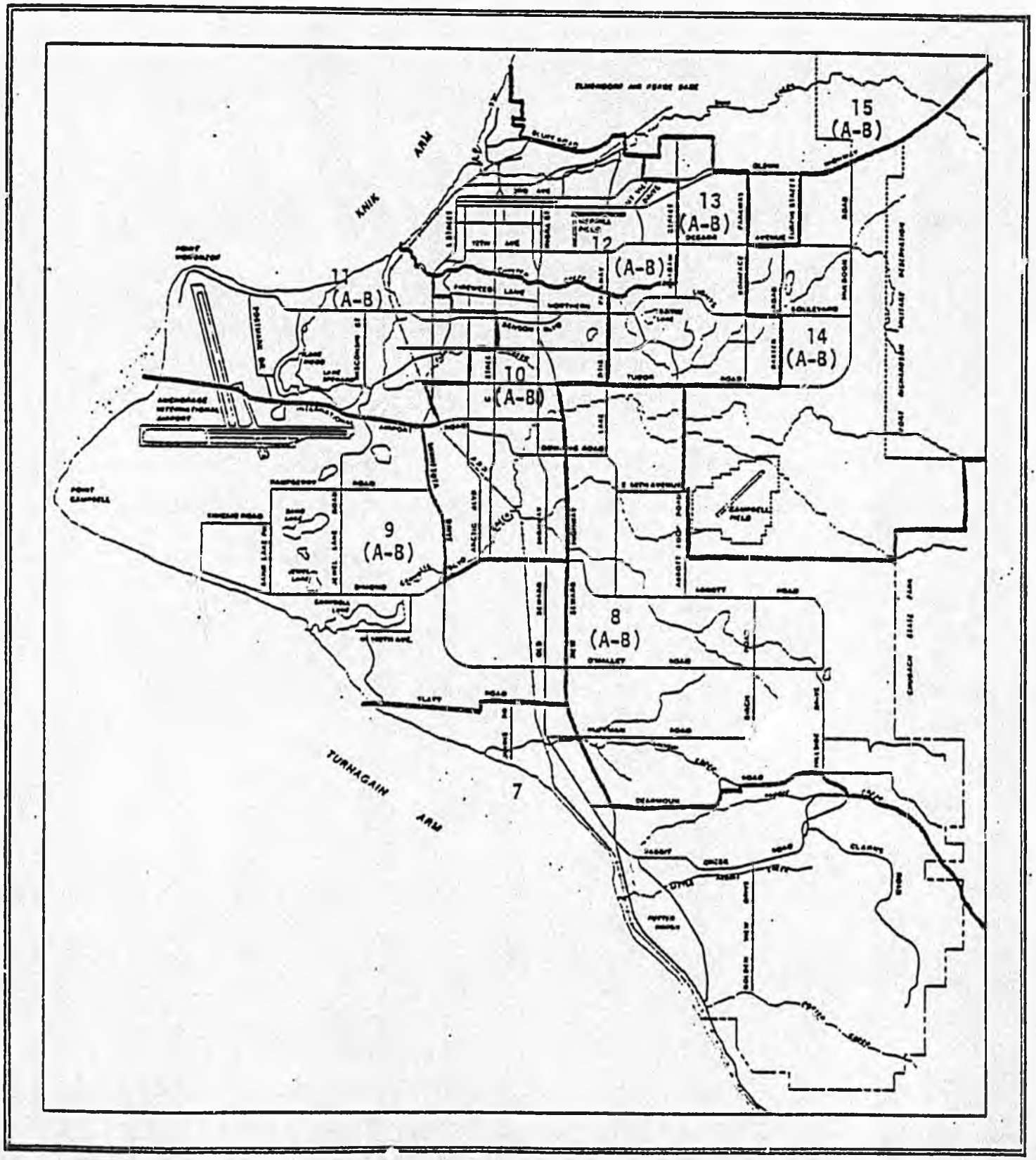
PLAN 2
ANCHORAGE ELECTION DISTRICTS
December 19, 1983




| House Districts | Senate Districts |
|---|---|
| 5 (A-B) | D |
| 6, 7 | E |
| 8 (A-B), 10 (A-B) | F (A-B) |
| 9 (A-B), 11 (A-B) | G (A-B) |
| 12 (A-B), 13 (A-B) | H (A-B) |
| 14 (A-B), 15 (A-B) | I (A-B) |

These boundaries are approximate.

# 1981 ANCHORAGE ELECTION DISTRICTS




These boundaries are approximate.

AGENDA

REAPPORTIONMENT ADVISORY BOARD

December 14 - 15, 1983 Meeting
1024 W. 6th
Legislative Information Office
Anchorage, Alaska

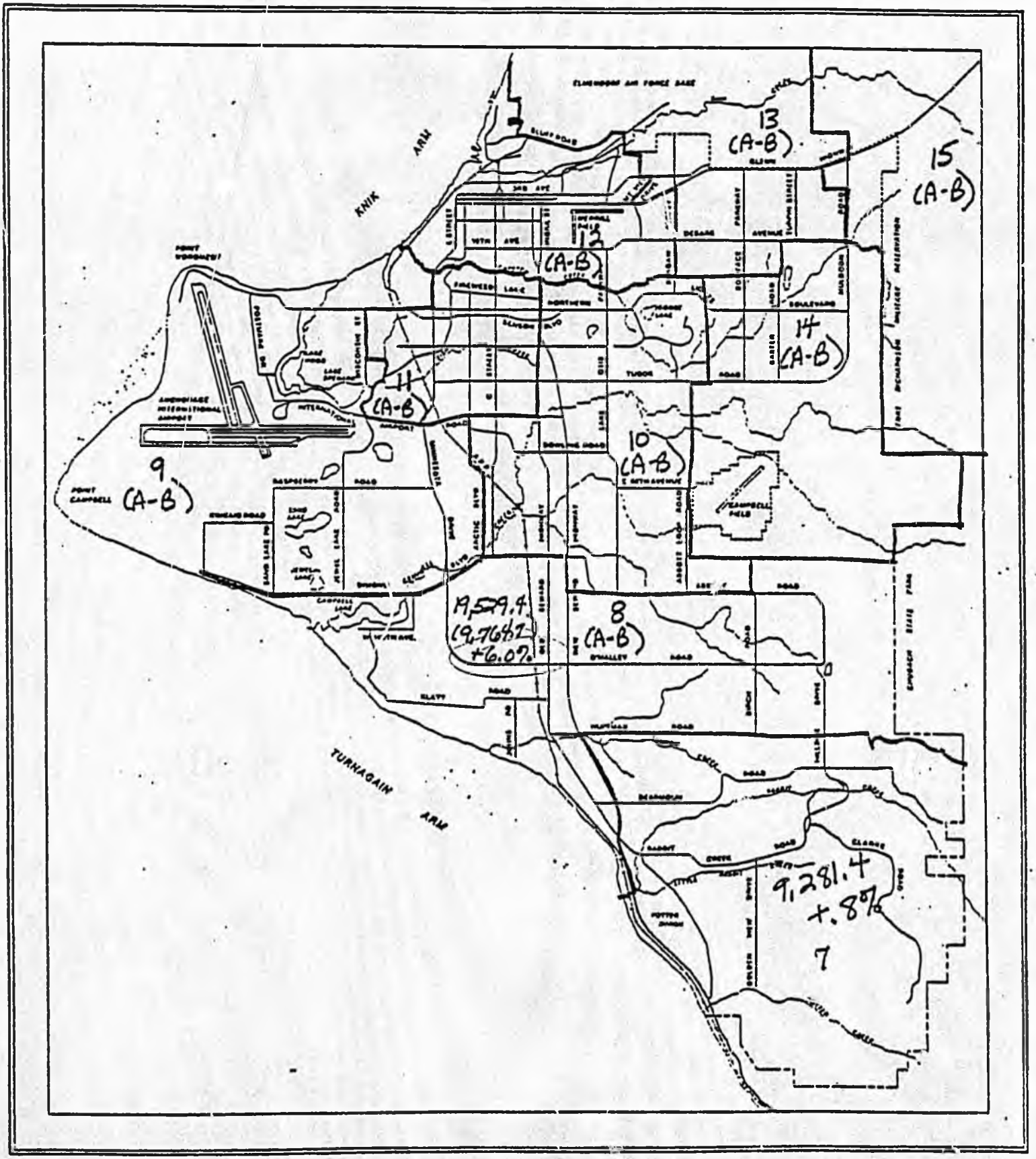
1. Call to Order
2. Discussion of Plan 2c
3. Discussion of Guidelines for Senate Terms
4. Other Business
5. Adjournment

Revised Plan 2C-1

# ANCHORAGE ELECTION DISTRICTS

December 12, 1983

Numbers don't work

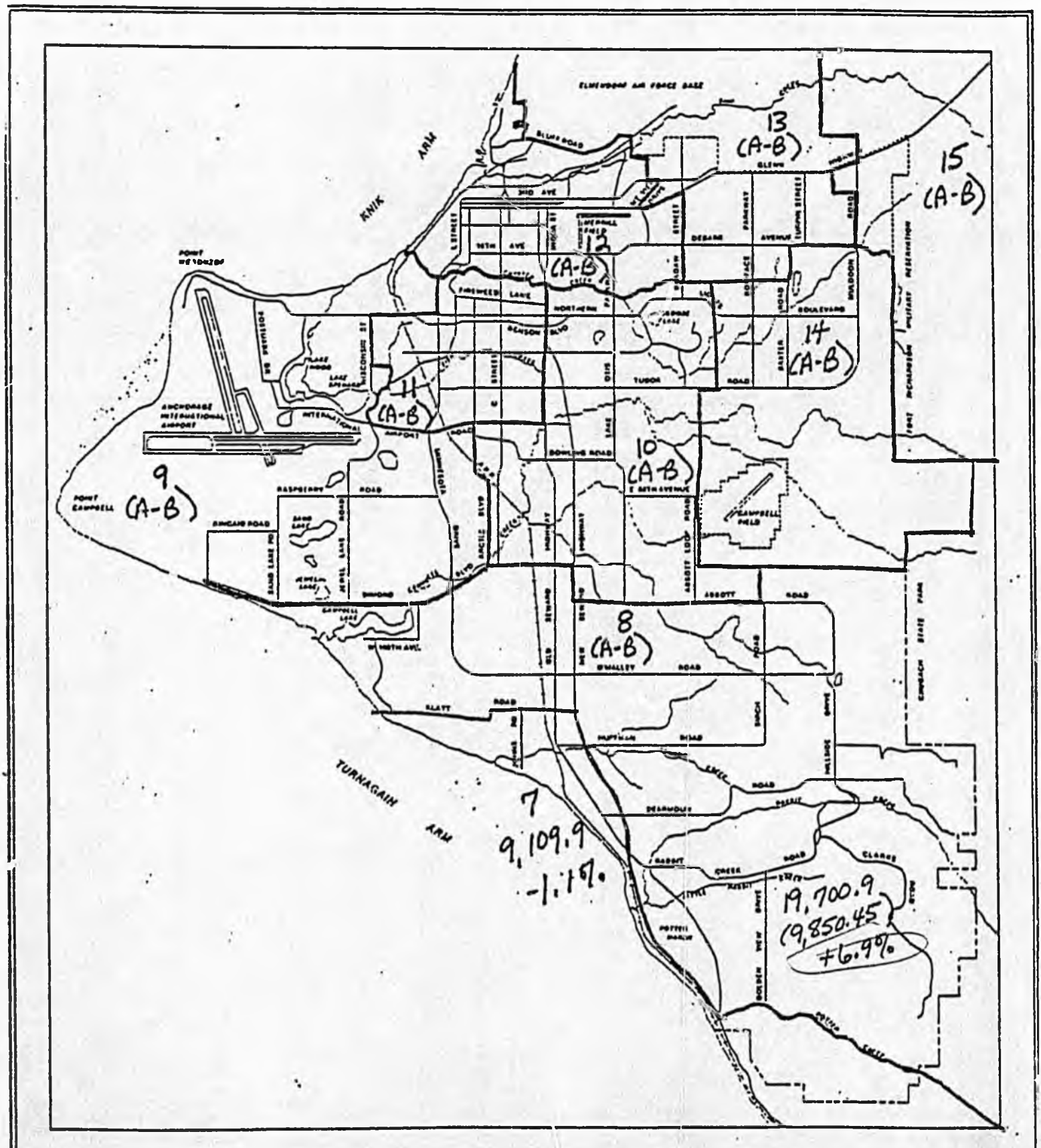


Revised Plan 2C-2

# ANCHORAGE ELECTION DISTRICTS

December 12, 1983

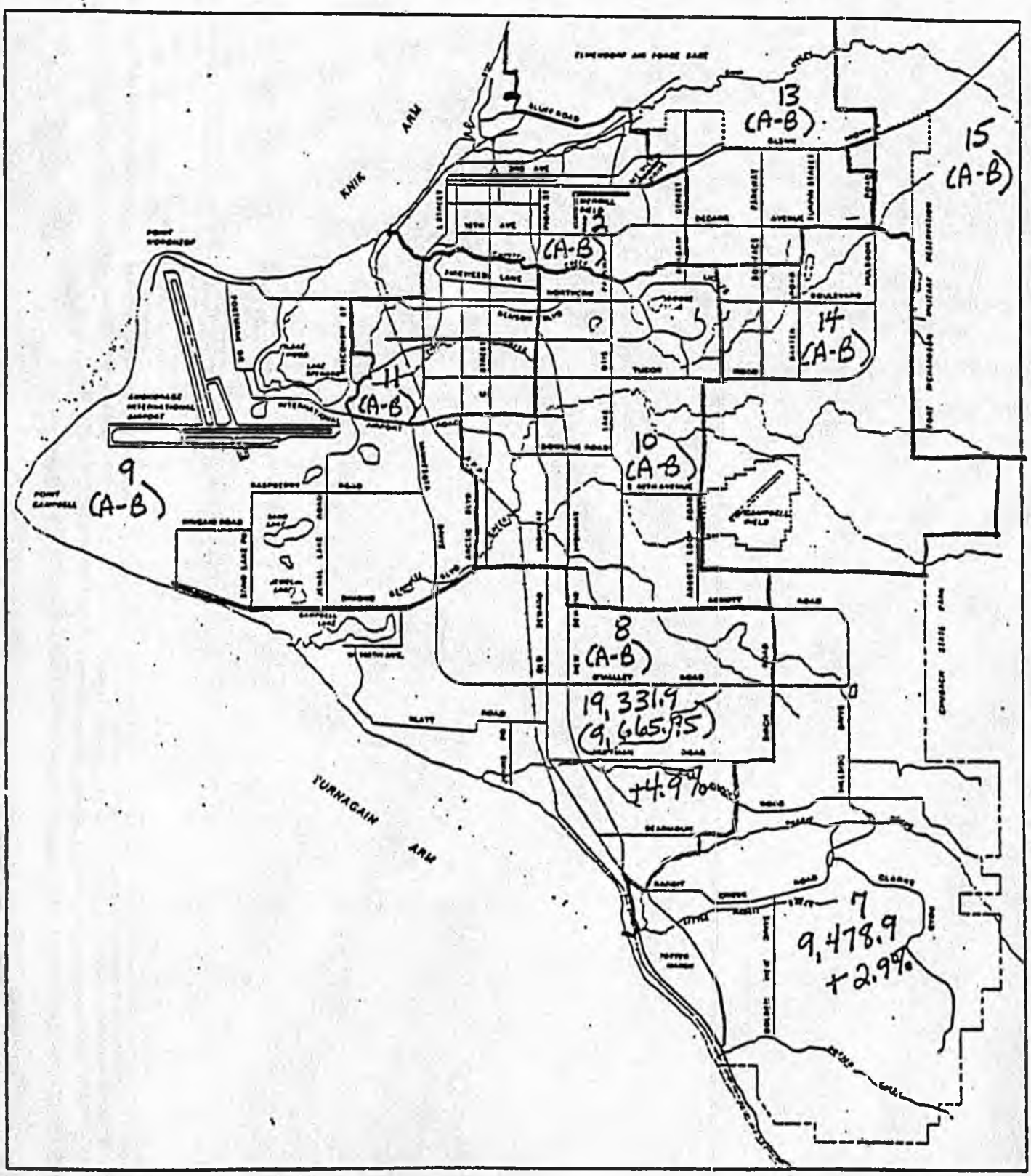
Numbers Don't Work



Revised Plan 2C-3

# ANCHORAGE ELECTION DISTRICTS

December 12, 1983

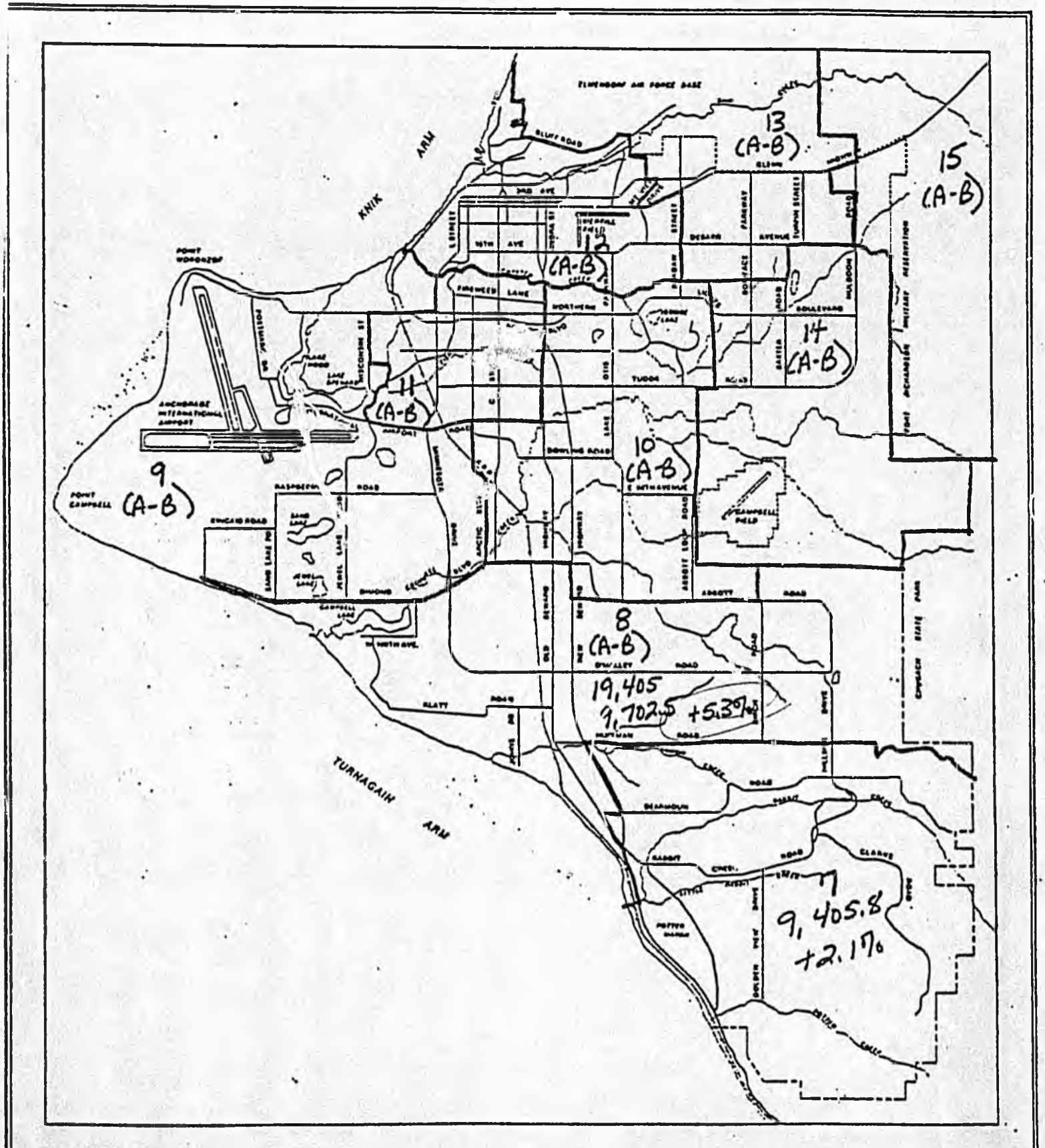


Revised Plan 2C-T

# ANCHORAGE ELECTION DISTRICTS

December 12, 1983

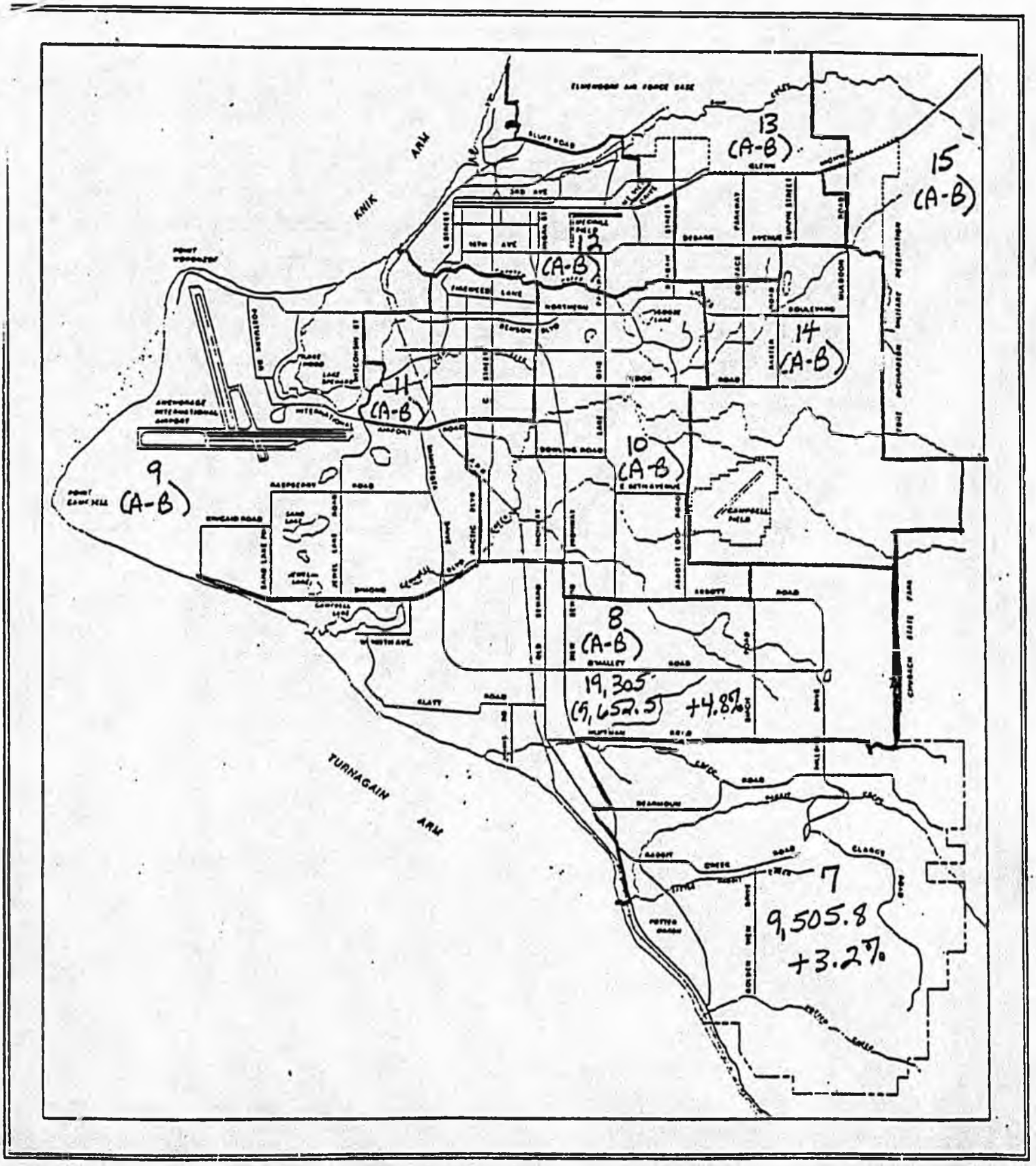
Numbers Don't Work



Revised Plan 2C-5

# ANCHORAGE ELECTION DISTRICTS

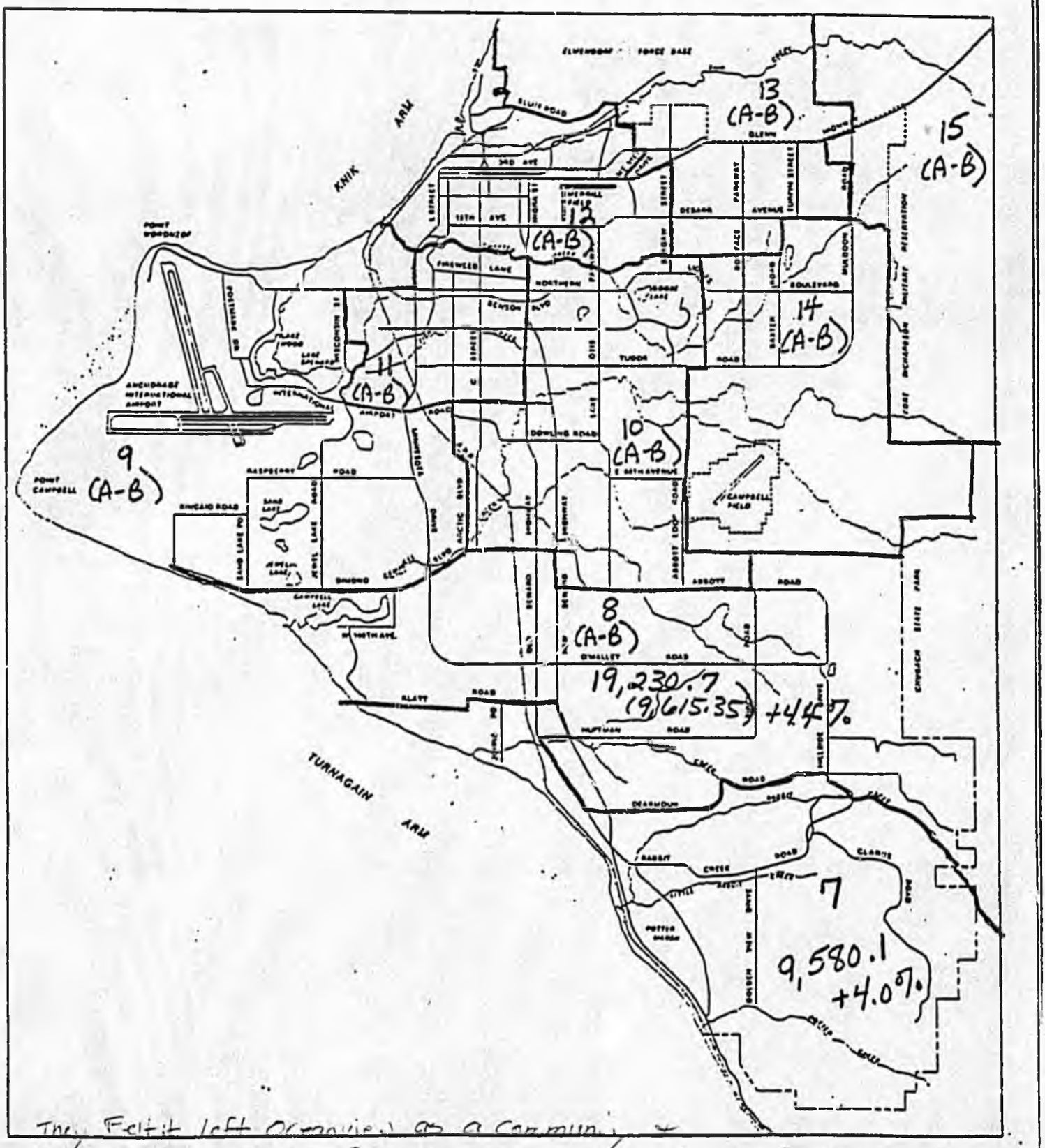
December 12, 1983



Revised Plan 2C-6

# ANCHORAGE ELECTION DISTRICTS

December 12, 1983
Board Chose This Plan




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NEWS RELEASE

REAPPORTIONMENT BOARD PROPOSES HOUSE AND SENATE PLANS
December 9, 1983

FOR IMMEDIATE RELEASE

JUNEAU -- The Reapportionment Board will be holding a series of teleconferences and hearings concerning two proposals they have adopted for house and senate districts. The five-member Board, including Willie Hensley of Kotzebue, Mary Nordale of Fairbanks, Joe McKinnon of Anchorage, Richard Borer of Cordova, and Felix Toner of Juneau, scheduled the hearings and teleconferences to gain public comment on the proposals. Board Chairman Willie Hensley said, "We are operating under severe time constraints and realize that it would be desirable to give everyone more time. However, we are trying to meet a January 3 deadline for submission of our recommendations to Governor Sheffield." The Governor is required to issue a reapportionment proclamation by February 4.

The meeting and public hearing/teleconference schedule for the Reapportionment Board is as follows:

| | |
|---|---|
| Wed., Dec. 14 - Anchorage | 9:00 AM - 4:00 PM<br>Board Meeting<br>1024 W. 6th<br>Legislative Information Office |
| | 6:00 PM - 9:00 PM<br>Teleconference with the Kenai Matanuska-Susitna Borough, and Prince William Sound areas |
| Thurs., Dec. 15 - Anchorage | 9:00 AM - 3:00 PM<br>Board Meeting<br>1024 W. 6th<br>Legislative Information Office |

Thurs., Dec. 15 - Anchorage

4:00 PM - 6:00 PM
Teleconference with Hoonah
and Metlakatla
1024 W. 6th
Legislative Information Office

7:30 PM - 10:00 PM
Public Hearing
1049 W. 5th
APUC Hearing Room, 1st Floor
Mutual of New York Bldg.

Fri., Dec. 16 - Anchorage

~~10~~:00 - ~~12:00~~ Noon
Board Meeting
1024 W. 6th
Legislative Information Office

The Reapportionment Board was appointed in October to make revisions to the 1981 Reapportionment Plan as ordered by Superior Court Judge Milton Souter. In mid-November the Board released several redistricting options, Plan 1, and Plan 2a, 2b, and 2c for public comment. After extensive meetings and hearings during the last few weeks, the Board adopted Plan 1 and Plan 2c with some revisions.

Plan 1 - House Districts

Plan 1 utilized the same data used by the 1981 Reapportionment Board in formulating their recommendations to former Governor Hammond. The Southeast revisions include separating Metlakatla and Annette Island from District 1 and Hoonah from District 3, to replace the Cordova area in District 2. This proposal for Southeast has a total combined variance between the most over-populated and the most underpopulated district of 14.84 percent.

The Cordova area in Plan 1 is placed in a Prince William Sound district, District 6, which includes the communities of Tatitlek, Valdez, Seward, Hope, Cooper Landing, Moose Pass, Port Graham, and English Bay. House District 5, a two-member

district, remains virtually the same with the exception of Port Graham and English Bay, and with the inclusion of the Sterling area from proposed District 7.

The Nikishka area and North Kenai Peninsula that was formerly in House District 6 has been placed with South Anchorage into House District 7. This district includes the area from Klatt Road south along the New Seward Highway to Potter Creek, all remaining area south of Potter Creek in the Municipality of Anchorage, and the Nikishka area.

Modifications to District S in Plan 1 include extension of the southern boundary from DeArmoun Road to Potter Creek and rather than following the New Seward Highway to Tudor Road, the boundary turns east at Dowling Road to Lake Otis Parkway and then north to Tudor Road.

District 9's boundaries remain unchanged. District 10's western boundary is revised to follow Arctic Boulevard from International Airport Road tc Fireweed Lane, then west to Spenard Road and north tc Chester Creek. This also becomes the new eastern boundary of District 11.

Plan 1 - Senate Districts

In keeping with the Superior Court order to make as few changes as possible, the Board determined that the senate districts would remain unchanged in Plan 1.

Plan 2c - House Districts

During the course of their deliberations, the Board identified several instances where the data used for the 1981 Plan contained a reporting error. The principal error occurred in the reporting

of the census data for the Eagle River area, where 1,414 persons were inadvertantly excluded. In order to address the problem with the initial census data, Governor Sheffield asked that the Board provide him with a plan which uses the most accurate census data available. Under Plan 2c, which utilizes the adjusted census data, the ideal population per house seat is increased from 9,176.2 in Plan 1 to 9,210.5 in Plan 2c.

The proposal for revisions to House Districts 1, 2, 3, and 4 in Southeast Alaska, and House Districts 5 and 6 for the Prince William Sound and the Kenai Peninsula are the same in Plan 1 and 2c. The population variances change slightly because of the increase in the ideal population per seat.

Plan 2c has been revised from the original version released in mid-November to address some concerns expressed to the Board during the last several weeks. District 7 previously placed the Upper Hillside area with Nikishka in a single-member district. The revised Plan 2c for District 7 places the area from Furrow Creek, south along the old Seward Highway to DeArmoun Road, then south of DeArmoun Road and Huffman Road from Bainbridge Road east to Glen Alps, with Nikishka. House Districts 8 and 9 are combined into a two-member district including the Campbell Lake, Klatt Road, and the Hillside areas. With only minor modifications the remainder of 2c is the same as orginally proposed. Because of the combination of the two single-member districts in South Anchorage in the revised Plan 2c, it is necessary to renumber all the Anchorage house districts. Please refer to the map included in this release for district numbering.

Plan 2c - Senate Districts

The Board has proposed three options for senate districts under Plan 2c for the Prince William Sound and Kenai Peninsula area.

1. One proposal would be to combine House District 5, a two-member house district, with single-member House Districts 6 and 7 into a two-member senate district.
2. The second proposal would have House District 5 become a single-member senate district, and combine House Districts 6 and 7 into a single-member senate district.
3. Because of testimony received by the Board concerning composition of a senate district that would include the Matanuska-Susitna Borough, the Prince William Sound, and part of the Kenai Peninsula, the third proposal would combine House Districts 6 and 7 with House District 16, a two-member house district for the Matanuska-Susitna area, into a two-member senate district. House District 5 would be a single-member district.

Three proposals were also developed for senate district combinations in the Anchorage area under Plan 2c.

1. The first proposal would be to create single-member senate districts in House Districts 8 - 15 which are all two-member house districts.
2. The second proposal would combine House Districts 8 and 10, House Districts 9 and 11, House Districts 12

Used 3 1/3% changes in 1981 - Board

All are w/in 20%. of same people in old Senate Districts

To change w. most old people in district

and 13, and House Districts 14 and 15, into two-member senate districts.

3. Finally, the third proposal would combine House Districts 8 and 9, House Districts 10 and 11, House Districts 12 and 13, and House Districts 14 and 15 into two-member senate districts.

The Reapportionment Board is very interested in receiving public comment on these proposals and would like to encourage anyone concerned with this process to participate in the teleconferences and meetings scheduled for December 14 through 16.

Attached to the press release is a statistical summary for house districts in Plan 1 and Plan 2c. Maps of the revised districts are also included as well as a map of the 1981 election districts in Anchorage.

Copies of this material may be obtained by contacting the Reapportionment Office in Juneau at 465-3538, the Regional Governor's Offices, and Legislative Information Offices.

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PLAN 1
REAPPORTIONMENT OF ELECTION DISTRICTS
STATISTICAL SUMMARY
HOUSE DISTRICTS
December 9, 1983

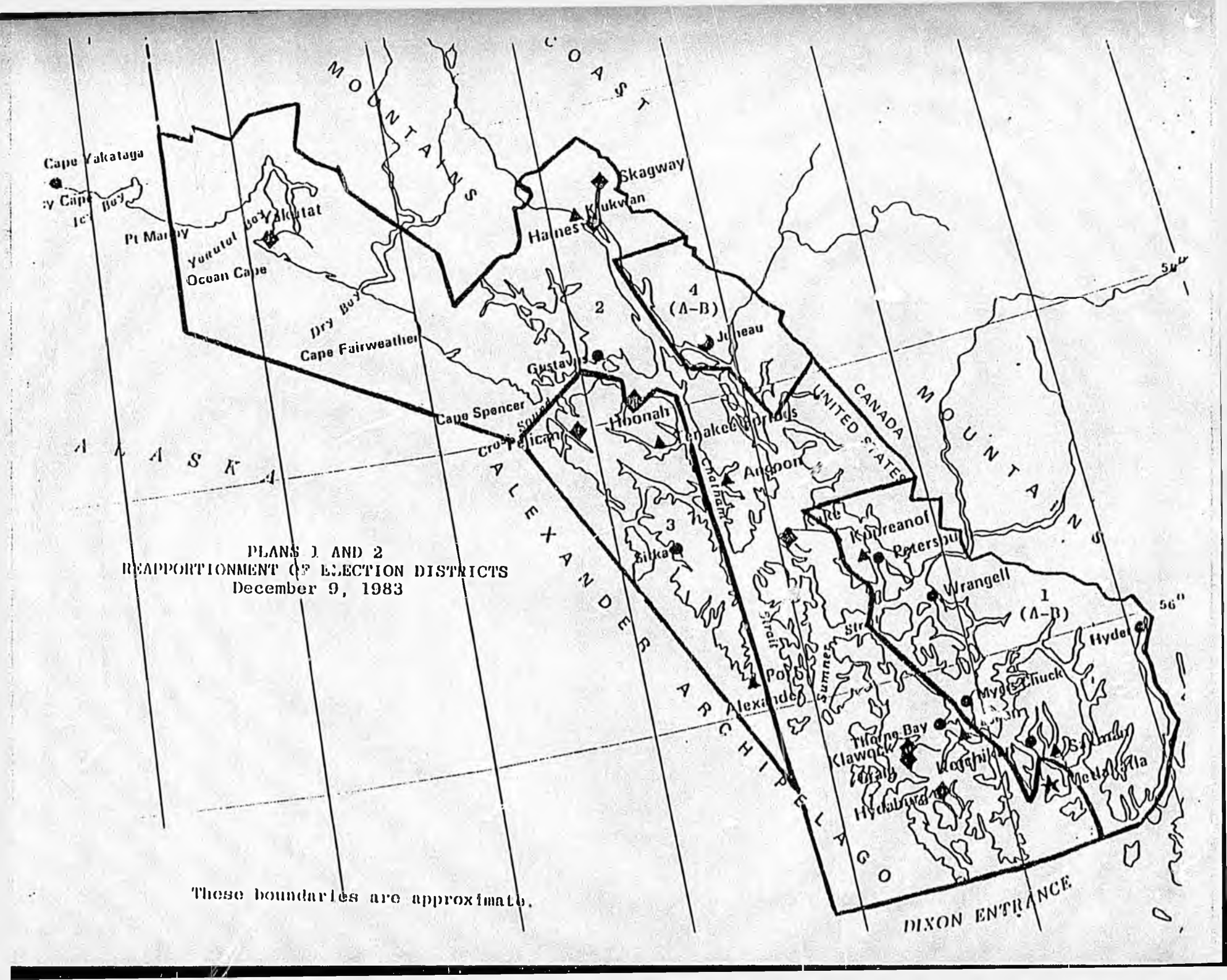
| | House District | Name | Population | Population Variance |
|---|---|---|---|---|
| * 1. | Seat A (2)<br>Seat B | Ketchikan-Wrangell-Petersburg | 16,601.58<br>(8,300.79/seat) | -9.5% |
| * 2. | (1) | Inside Passage | 8,924.35 | -2.7% |
| * 3. | (1) | Baranof-Chichagof | 8,448.97 | -7.9% |
| 4. | Seat A (2)<br>Seat B | Juneau | 19,332.75<br>(9,666.375/seat) | +5.34% |
| * 5. | Seat A (2)<br>Seat B | Kenai-Cook Inlet | 18,872.95<br>(9,436.475/seat) | +2.8% change +161 |
| * 6. | (1) | Prince William Sound | 8,906.19 | [redacted] |
| * 7. | (1) | North Kenai-South Anchorage | 9,109.9 | - .7% change -161 |
| * 8. | Seat A (2)<br>Seat B | Hillside | 18,269.4<br>(9,134.7/seat) | - .4% |
| 9. | Seat A (2)<br>Seat B | Sand Lake | 18,004.7<br>(9,002.35/seat) | -1.9% |
| *10. | Seat A (2)<br>Seat B | Mid-town | 19,038.1<br>(9,519.05/seat) | +3.7% |
| *11. | Seat A (2)<br>Seat B | Westside | 18,960.4<br>(9,480.2/seat) | +3.3% |
| 12. | Seat A (2)<br>Seat B | Downtown | 18,170.0<br>(9,085/seat) | -1.0% |
| 13. | Seat A (2)<br>Seat B | Mountain View-University | 18,907.5<br>(9,453.75/seat) | +3.02% |
| 14. | Seat A (2)<br>Seat B | Muldoon | 19,031.5<br>(9,515.75/seat) | +3.7% |
| 15. | Seat A (2)<br>Seat B | Chugiak-Eagle River-Bases | 18,560.7<br>(9,280.35/seat) | +1.13% |
| 16. | Seat A (2)<br>Seat B | Matanuska-Susitna | 17,642.23<br>(8,821.115/seat) | -3.37% |

| House District | | Name | Population | Population Variance |
|---|---|---|---|---|
| 17. | (1) | Interior Highways | 9,011.57 | -1.8% |
| 18. | (1) | Southeast North Star Borough | 9,300.0 | +1.3% |
| 19. | (1) | Outer Fairbanks | 8,934.3 | -2.6% |
| 20. | Seat A (2)<br>Seat B | Fairbanks City | 18,319.7<br>(9,159.8/seat) | - .2% |
| 21. | (1) | West Fairbanks | 9,247.1 | + .8% |
| 22. | (1) | North Slope-Kotzebue | 8,999.06 | -1.9% |
| 23. | (1) | Norton Sound | 9,338.86 | +1.8% |
| 24. | (1) | Interior Rivers | 8,936.12 | -2.6% |
| 25. | (1) | Lower Kuskokwim | 9,432.35 | +2.8% |
| 26. | (1) | Bristol Bay-Aleutian Islands | 9,157.61 | - .2% |
| 27. | (1) | Kodiak-East Alaska Peninsula | 9,592.40 | +4.53% |
| | | TOTAL POPULATION | 367,050.29 | |
| | | (Less Non-Resident Military and Dependents) | | |

| | | | |
|---|---|---|---|
| Southeast Alaska | Maximum Overpopulation | +5.34% | District 4 |
| | Maximum Underpopulation | -9.5 % | District 1 |
| | Total Combined Variance | 14.84% | |
| Other Districts | Maximum Overpopulation | +4.53% | District 27 |
| | Maximum Underpopulation | -3.87% | District 16 |
| | Total Combined Variance | 8.4 % | |

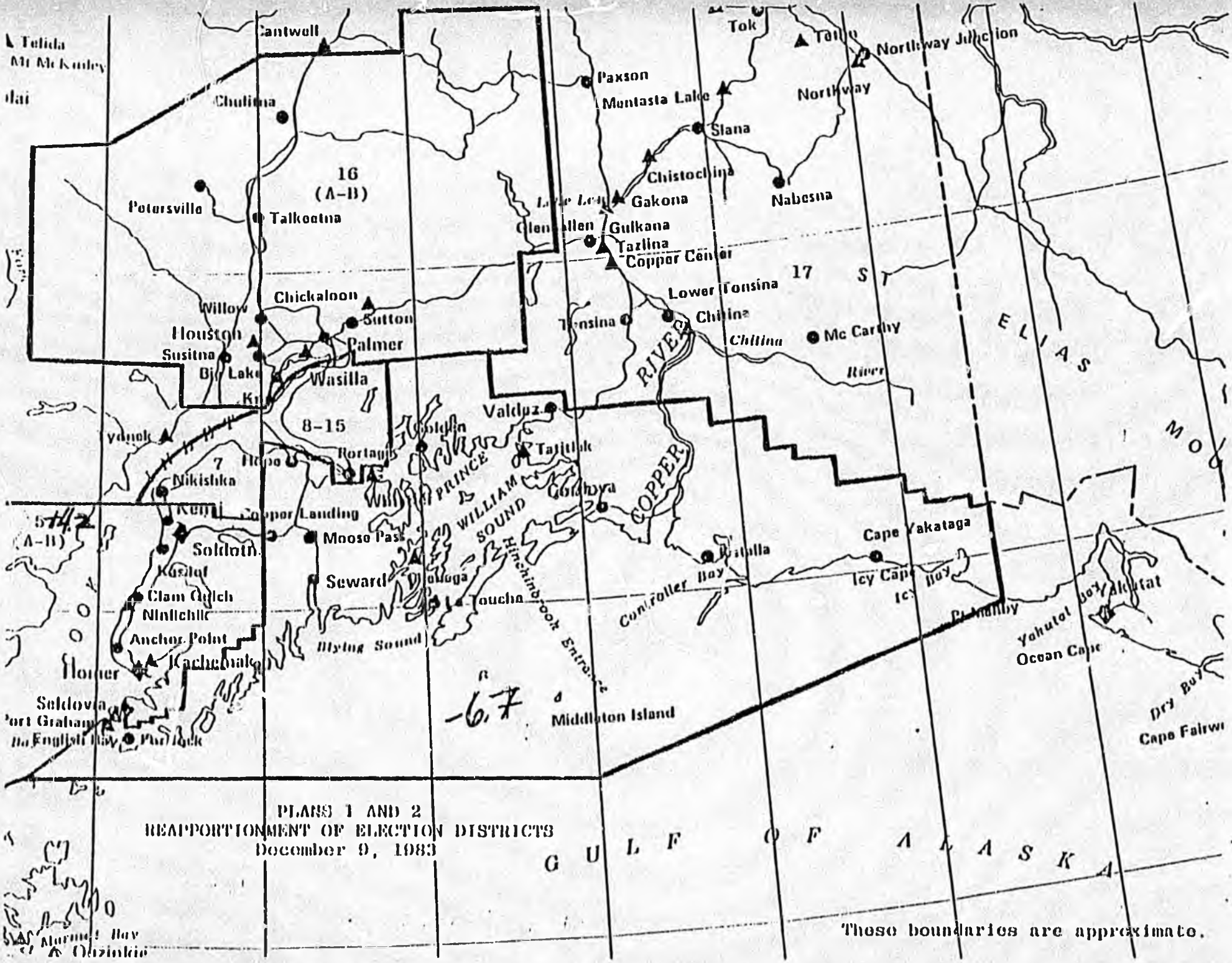
*These districts were revised in order to make corrections to the 1981 Reapportionment Plan in accordance with Superior Court Judge Milton Souter's order dated October 12, 1983.

No mention of changes between




PLANS 1 AND 2
REAPPORTIONMENT OF ELECTION DISTRICTS
December 9, 1983

These boundaries are approximate.

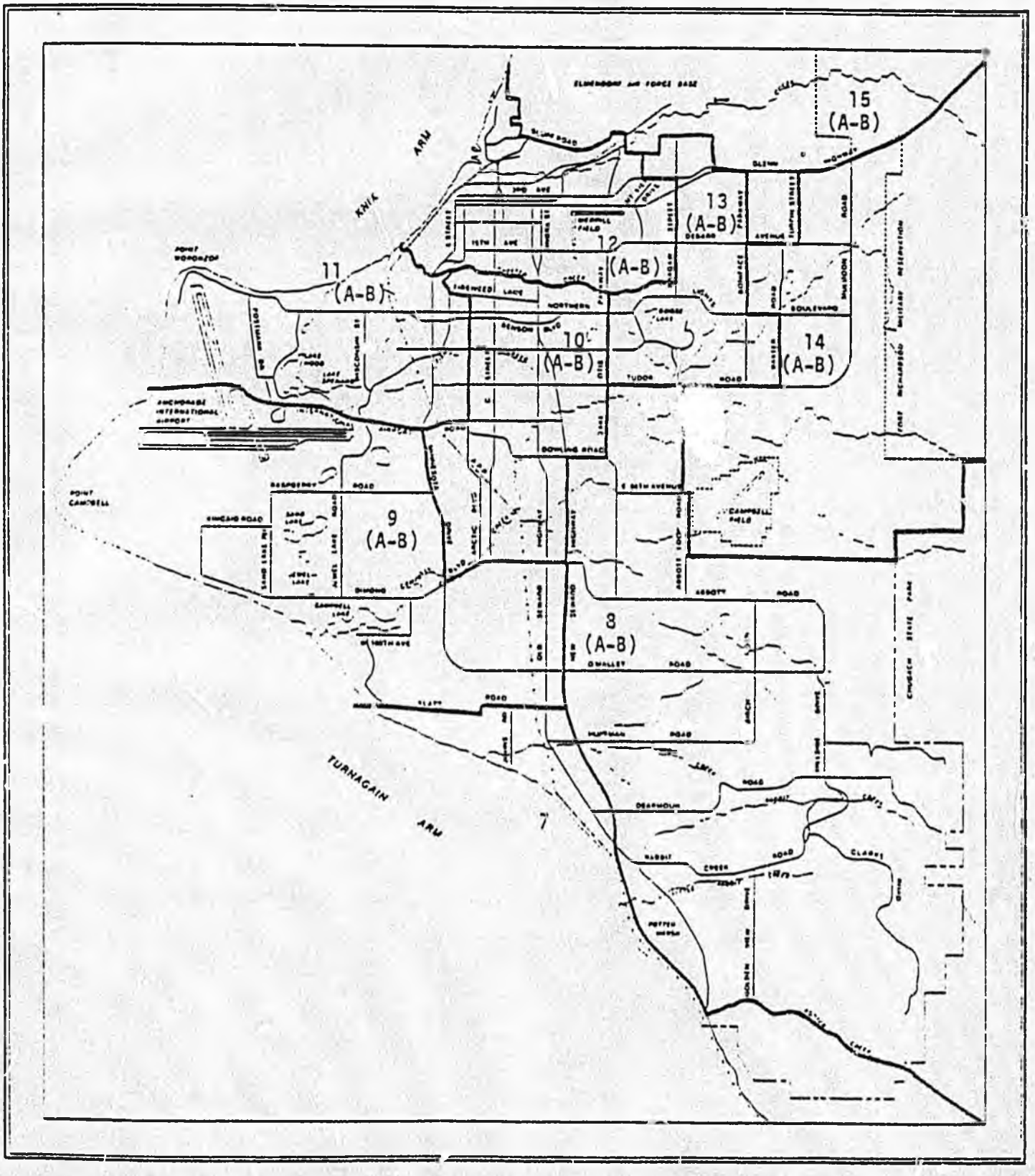



PLANS 1 AND 2
REAPPORTIONMENT OF ELECTION DISTRICTS
December 9, 1983

-67

These boundaries are approximate.

PLAN 1
ANCHORAGE ELECTION DISTRICTS
December 9, 1983




These boundaries are approximate.

PLAN 2c
REAPPORTIONMENT OF ELECTION DISTRICTS
STATISTICAL SUMMARY
HOUSE DISTRICTS
December 9, 1983

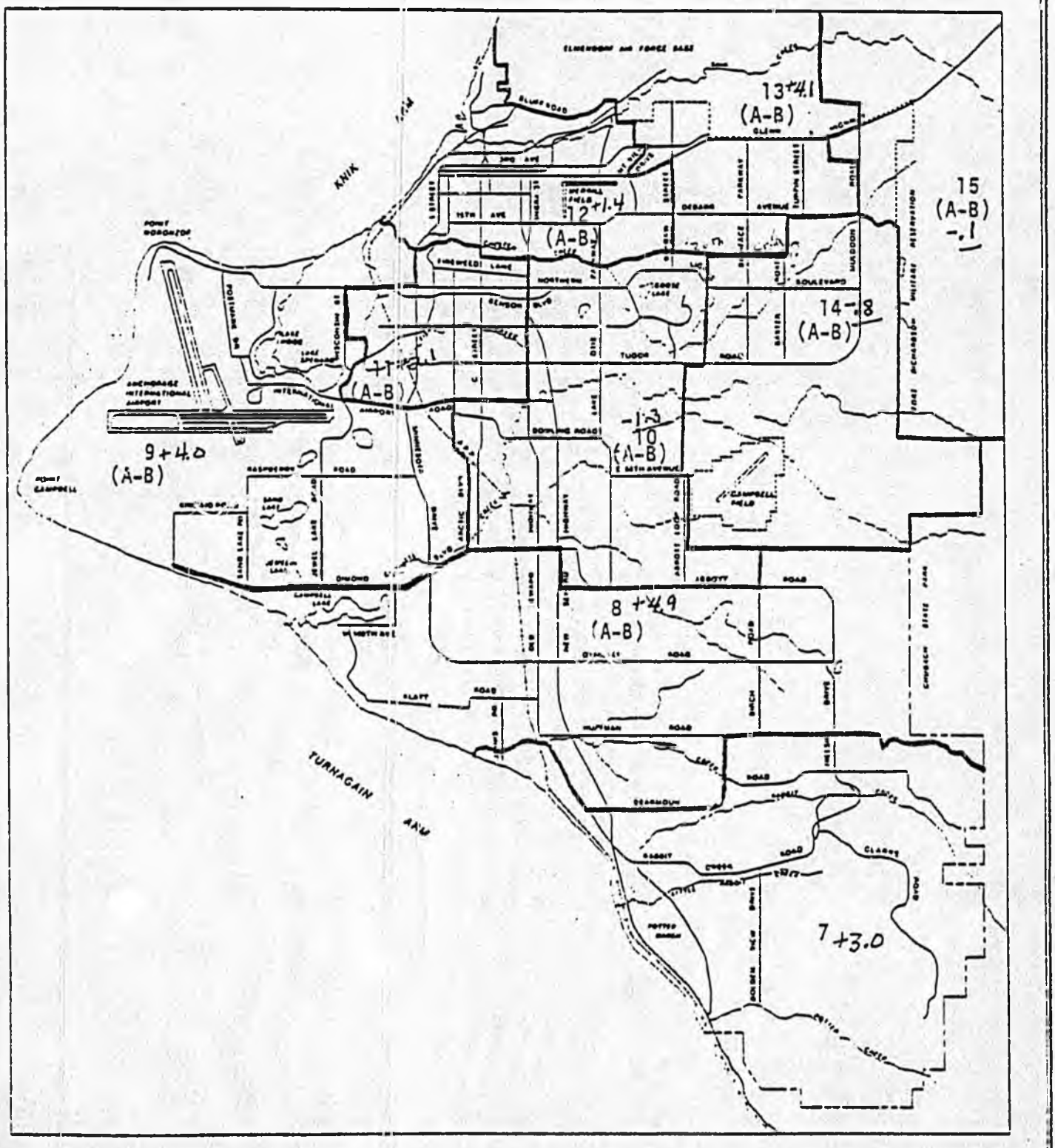
| | House District | Name | Population | Population Variance |
|---|---|---|---|---|
| * 1. | Seat A (2)<br>Seat B | Ketchikan-Wrangell-Petersburg | 16,601.58<br>(8,300.79/seat) | -9.9% |
| * 2. | (1) | Inside Passage | 8,924.35 | -3.1% |
| * 3. | (1) | Baranof-Chichagof | 8,448.97 | -8.3% |
| 4. | Seat A (2)<br>Seat B | Juneau | 19,332.75<br>(9,666.375/seat) | +4.9% |
| * 5. | Seat A (2)<br>Seat B | Kenai-Cook Inlet | 18,872.95<br>(9,436.475/seat) | ~~-2.4%~~<br>+4.2 |
| * 6. | (1) | Prince William Sound | 8,906.19 | ~~-3.6%~~<br>-6.7% |
| * 7. | (1) | North Kenai-South Anchorage | 9,485 | +3.0% |
| * 8. | Seat A (2)<br>Seat B | Campbell-Hillside | 19,325.8<br>(9,662.9/seat) | +4.9% |
| * 9. | Seat A (2)<br>Seat B | Turnagain-Sand Lake | 19,155.9<br>(9,577.95/seat) | +4.0% |
| *10. | Seat A (2)<br>Seat B | Mid-town | 18,183.5<br>(9,091.75/seat) | -1.3% |
| *11. | Seat A (2)<br>Seat B | Spenard | 18,804.1<br>(9,402.05/seat) | +2.1% |
| *12. | Seat A (2)<br>Seat B | Downtown | 18,678.4<br>(9,339.2/seat) | +1.4% |
| *13. | Seat A (2)<br>Seat B | Elmendorf AFB-Mountain View | 19,173.1<br>(9,586.55/seat) | +4.1% |
| *14. | Seat A (2)<br>Seat B | South Muldoon | 18,265.4<br>(9,132.7/seat) | - .8% |
| *15. | Seat A (2)<br>Seat B | Chugiak-Eagle River-Ft. Richardson | 18,395<br>(9,197.5/seat) | - .1% |

| House District | | Name | Population | Population Variance |
|---|---|---|---|---|
| 16. | Seat A (2)<br>Seat B | Matanuska-Susitna | 17,692.23<br>(8,846.115/seat) | -3.9% |
| 17. | (1) | Interior Highways | 8,917.57 | -3.2% |
| 18. | (1) | Southeast North Star Borough | 9,300.0 | + .9% |
| 19. | (1) | Outer Fairbanks | 8,934.3 | -3.0% |
| 20. | Seat A (2)<br>Seat B | Fairbanks City | 18,319.7<br>(9,159.8/seat) | - .5% |
| 21. | (1) | West Fairbanks | 9,247.1 | + .4% |
| 22. | (1) | North Slope-Kotzebue | 8,999.06 | -2.3% |
| 23. | (1) | Norton Sound | 9,338.86 | +1.4% |
| 24. | (1) | Interior Rivers | 8,936.12 | -3.0% |
| 25. | (1) | Lower Kuskokwim | 9,432.35 | +2.4% |
| 26. | (1) | Bristol Bay-Aleutian Islands | 9,157.61 | - .6% |
| 27. | (1) | Kodiak-East Alaska Peninsula | 9,592.40 | +4.1% |
| | | TOTAL ADJUSTED POPULATION<br>(Less Non-Resident Military and Dependents) | 368,420.29 | |

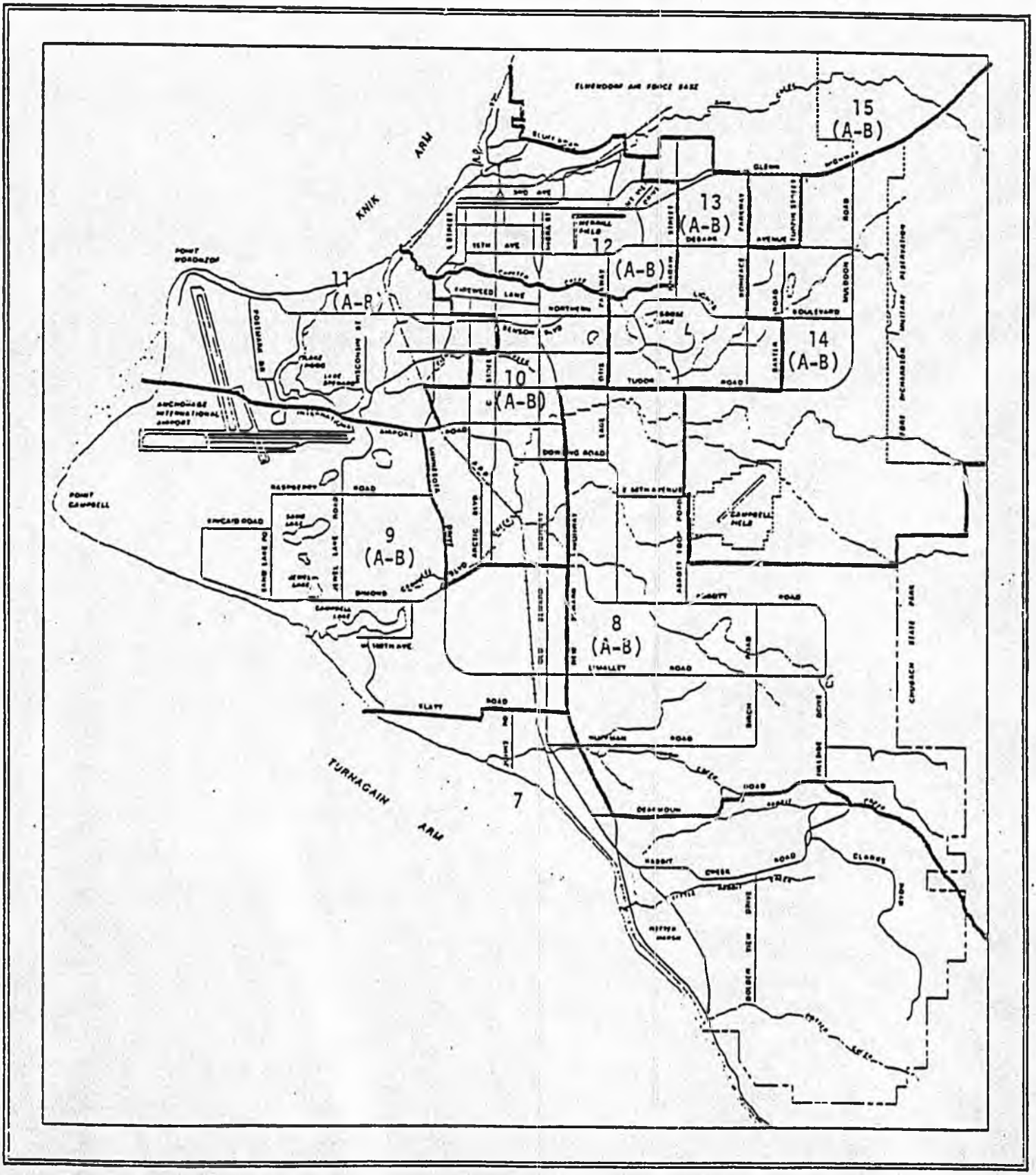
| | | | |
|---|---|---|---|
| Southeast Alaska | Maximum Overpopulation | +4.9% | District 4 |
| | Maximum Underpopulation | -9.9% | District 1 |
| | Total Combined Variance | 14.8% | |
| Other Districts | Maximum Overpopulation | +4.9% | District 8 |
| | Maximum Underpopulation | -3.9% | District 17 |
| | Total Combined Variance | 8.8% | |

*Revisions were made in these districts in order to make corrections to the 1981 Reapportionment Plan in accordance with Superior Court Judge Milton Souter's order dated October 12, 1983, and includes technical corrections made to the 1980 census data.

PLAN 2c - REVISED
ANCHORAGE ELECTION DISTRICTS
December 9, 1983



# 1981 ANCHORAGE ELECTION DISTRICTS




These boundaries are approximate.

Note Copy

NEWS RELEASE

REAPPORTIONMENT BOARD PROPOSES REVISIONS TO 1981 PLAN
November 18, 1983

FOR IMMEDIATE RELEASE

JUNEAU--Following extensive meetings in Juneau during the last several weeks, the newly-appointed Reapportionment Board has proposed two plans for the court-mandated revisions to the 1981 Reapportionment Plan. Chairman Willie Hensley says the Board is moving as quickly as possible in order to have their recommendations to Governor Sheffield by January 3. "We would like to have the public review these proposals and provide us with their comments. The Board will be holding several public hearings in the next two weeks and we invite anyone concerned with this process to participate in the hearings," said Hensley. The Public Hearing Schedule is as follows:

| | |
|---|---|
| Mon., Nov. 21 - Ketchikan | 7:30 p.m.<br>School District Board Room<br>Masonic Temple Building<br>Grant Street |
| Tues., Nov. 22 - Juneau | 7:30 p.m.<br>Court Room A<br>Alaska Court Building |
| Tues., Nov. 29 - Fairbanks | 7:30 p.m.<br>Borough Assembly Chambers<br>520 Fifth Avenue |
| Wed., Nov. 30 - Anchorage | Two Sessions:<br>1:30 - 5:00 p.m.<br>7:30 - 10:00 p.m.<br>Court Room G, Room 401<br>Alaska Court Building<br>303 K Street |
| Thurs., Dec. 1 - Kenai | 1:30 - 4:00 p.m.<br>City Council Chambers<br>210 Fidalgo |

The 5-member panel, including Hensley of Kotzebue, Mary Nordale of Fairbanks, Joe McKinnon of Anchorage, Richard Borer of Cordova and Felix Toner of Juneau, is charged with presenting recommendations to Governor Sheffield which revise the 1981 Reapportionment Plan by shifting the Cordova area from House District 2 in Southeast to a Southcentral district.

PLAN 1

Plan 1 utilizes the same data used by the 1981 Reapportionment Board in formulating their recommendations to former Governor Hammond. The Southeast revisions include separating Metlakatla and Annette Island from District 1 and Hoonah from District 3, to replace the Cordova area in District 2. Although Southeast Alaska as a region is only slightly underpopulated, -3.2 percent for six house seats, the allocation of the population is difficult because of the overpopulation in the Juneau area. After considerable thought, the Board concluded that it would be ill-advised to sever a portion of the Juneau area. Their proposal for Southeast, which is the same in Plans 1 and 2, has a total combined variance between the most overpopulated and the most underpopulated district of 14.84 percent.

The Cordova area in Plan 1 is placed in a Prince William Sound district, District 6, which includes the communities of Tatitlek, Valdez, Seward, Hope, Cooper Landing, Moose Pass, Port Graham, and English Bay. House District 5, a two-member district, remains virtually the same with the exception of Port Graham and English Bay.

The Nikishka area and North Kenai Peninsula that was formerly in House District 6 has been moved into South Anchorage in both Plans 1 and 2. The revised District 7 includes the area from Klatt Road south along the New Seward Highway to Potter Creek, all remaining area south of Potter Creek in the Municipality of Anchorage, and the Nikishka area.

Modifications to District 8 in Plan 1 include extension of the southern boundary from DeArmoun Road to Potter Creek and rather than following the New Seward Highway to Tudor Road, the boundary turns east at Dowling Road to Lake Otis Parkway and then north to Tudor Road. Why no mention of pop. decrease in S.W.AK. - military -

District 9's boundaries remain unchanged. District 10's western boundary is revised to follow Arctic Boulevard from International Airport Road to Fireweed Lane, then west to Spenard Road and north to Chester Creek. This also becomes the new eastern boundary of District 11.

PLAN 2

During the course of the Board's deliberation, the Board identified several instances where the data used for the 1981 Plan contained a reporting error. The principal error occurred in the reporting of the census data for the Eagle River area, where 1,414 persons were inadvertantly excluded. In order to address the problem with the initial census data, Governor Sheffield asked that asked the Board provide him with a plan which uses the most accurate census data available. Under Plan 2, which utilizes the adjusted census data, the ideal population per house seat is increased from 9,176.2 in Plan 1 to 9,210.5 in Plan 2.

The proposal for revisions to districts in Southeast Alaska and on the Kenai Peninsula are the same in both Plans 1 and 2. The population variances change slightly because of the increase in the ideal population per seat.

In Anchorage, Plan 2 offers three proposals for redistricting. Because of a major correction in 1980 census data in the Eagle River area of an additional 1,414 persons, shifts in the boundaries are necessary to correct the excessive population variance.

Plan 2-A utilizes the same redistricting plan for House Districts 7 through 11 as in Plan 1. District 12 includes the Downtown area and North Mountain View. Elmendorf Air Force Base and the North Muldoon area are in District 13, South Muldoon and University in District 14, and part of Muldoon, east of Muldoon Road is included with Fort Richardson, Chugiak, and Eagle River in District 15.

Plan 2-B includes the same revision for District 7 and makes major revisions to District 8 which includes part of the Hillside area and Campbell Lake. Abbott Loop, Rogers Park, Tudor, and part of the Spenard and Taku-Campbell areas are in District 9. District 10 includes Sand Lake and Turnagain and District 11 encompasses most of the Spenard area. District 12 is the Downtown area and District 13 includes Elmendorf AFB, Mountain View and North Muldoon area. The University and South Muldoon areas are in District 14 and residents east of Muldoon Road are in District 15 with Fort Richardson, Chugiak and Eagle River.

Plan 2-C changes the other proposals for District 7 from the Klatt Road area to include the Upper Hillside. District 8 becomes a single-member district in the Lower Hillside area and District 9 is also a single-member district including the Campbell Lake and Klatt Road area. The University, Rogers Park and Tudor areas are combined with Abbott Loop and Taku-Campbell in District 10. District 11 includes most of Sand Lake and Turnagain and District 12 encompasses the Spenard area. The Downtown area becomes District 13, with Elmendorf AFB, Mountain View, and North Muldoon in District 14. South Muldoon becomes District 15 and Fort Richardson, Chugiak, Eagle River, and part of Muldoon become District 16. Because of the creation of two additional single-member districts in South Anchorage in Plan 2-C, it is necessary to renumber District 16, the Matanuska-Susitna Borough, to District 17, and all remaining districts through District 28. Only the numbers change. There have been no changes in election district boundaries beyond Anchorage.

Attached to the press release is a detailed discussion of adjustments to the 1980 census data, a statistical summary for house districts in Plan 1 and Plan 2-A, 2-B, and 2-C. Maps of the revised districts are also included as well as a map of the 1981 election districts in Anchorage.

Copies of this material may be obtained by contacting the Reapportionment Office in Juneau at 465-3538, the Regional Governor's Offices, and Legislative Information Offices.

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attn: Karen Redfield
Pocock-A

REAPPORTIONMENT OF ELECTION DISTRICTS
ADJUSTMENTS TO 1980 CENSUS DATA
November 18, 1983

In September of 1981, the U.S. Bureau of the Census issued revised 1980 census counts for three census areas in the State of Alaska; Anchorage, Matanuska-Susitna, and Southeast Fairbanks. A detailed listing of these revised counts by census tract, blocks, and enumeration districts was compiled in November, 1981. The November listing also included a correction in the Prince of Wales census sub-area that did not change the population for the sub-area, but reallocated the population previously reported to the correct enumeration district.

Three additional corrections to the 1980 census data for Alaska were issued in June of 1982; in Saxman, Selawik, and Barrow. These corrections represented a reallocation of population within the specific census area and did not change the population in those census areas.

The 1981 corrections to the 1980 census counts for Alaska are as follows:

| | |
|---|---|
| Anchorage Census Area | |
| Tract 0002 - Eagle River | +1,414 |
| Matanuska-Susitna Census Area | |
| ED 1168 Wasilla Area | +50 |
| Southeast Fairbanks Census Area | |
| ED 0833 | -94 |

The 1980 population for the State of Alaska utilized by the 1981 Reapportionment Board was 367,050.29 (that number excluded 33,430.7 non-resident military and dependents from the original statewide total of 400,481).

The adjusted 1980 population for the State of Alaska, incorporating the 1981 revisions, is 368,420.29.

| | | |
|---|---|---|
| | 367,050.29 | - 1980 population |
| | + 1,414 | - Eagle River |
| | + 50 | - Matanuska-Susitna |
| | - 94 | - Southeast Fairbanks |
| TOTAL | 368,420.29 | - Adjusted 1981 population |

The ideal house district population is also adjusted from 9,176.2 to 9,210.5; the quotient of dividing the adjusted population by the 40 house seats to be apportioned.

PLAN 1

# REAPPORTIONMENT OF ELECTION DISTRICTS
## STATISTICAL SUMMARY
## HOUSE DISTRICTS
November 18, 1983

| | House District | Name | Population | Population Variance |
|---|---|---|---|---|
| * 1. | Seat A (2)<br>Seat B | Ketchikan-Wrangell-Petersburg | 16,601.58<br>(8,300.79/seat) | -9.5% |
| * 2. | (1) | Inside Passage | 8,924.35 | -2.7% |
| * 3. | (1) | Baranof-Chichagof | 8,448.97 | -7.9% |
| 4. | Seat A (2)<br>Seat B | Juneau | 19,332.75<br>(9,666.375/seat) | +5.34% |
| * 5. | Seat A (2)<br>Seat B | Kenai-Cook Inlet | 18,711.95<br>(9,355.975/seat) | +1.9% |
| * 6. | (1) | Prince William Sound | 8,906.19 | -2.9% |
| * 7. | (1) | North Kenai-South Anchorage | 9,270.9 | +1.03% |
| * 8. | Seat A (2)<br>Seat B | Hillside | 18,269.4<br>(9,134.7/seat) | - .4% |
| 9. | Seat A (2)<br>Seat B | Sand Lake | 18,004.7<br>(9,002.35/seat) | -1.9% |
| *10. | Seat A (2)<br>Seat B | Mid-town | 19,038.1<br>(9,519.05/seat) | +3.7% |
| *11. | Seat A (2)<br>Seat B | Westside | 18,960.4<br>(9,480.2/seat) | +3.3% |
| 12. | Seat A (2)<br>Seat B | Downtown | 18,170.0<br>(9,085/seat) | -1.0% |
| 13. | Seat A (2)<br>Seat B | Mountain View-University | 18,907.5<br>(9,453.75/seat) | +3.02% |
| 14. | Seat A (2)<br>Seat B | Muldoon | 19,031.5<br>(9,515.75/seat) | +3.7% |
| 15. | Seat A (2)<br>Seat B | Chugiak-Eagle River-Bases<br>5330 + 1528 + ?? | 18,560.7<br>(9,280.35/seat) | +1.13% |
| 16. | Seat A (2)<br>Seat B | Matanuska-Susitna | 17,642.23<br>(8,821.115/seat) | -3.87% |

:6

:17

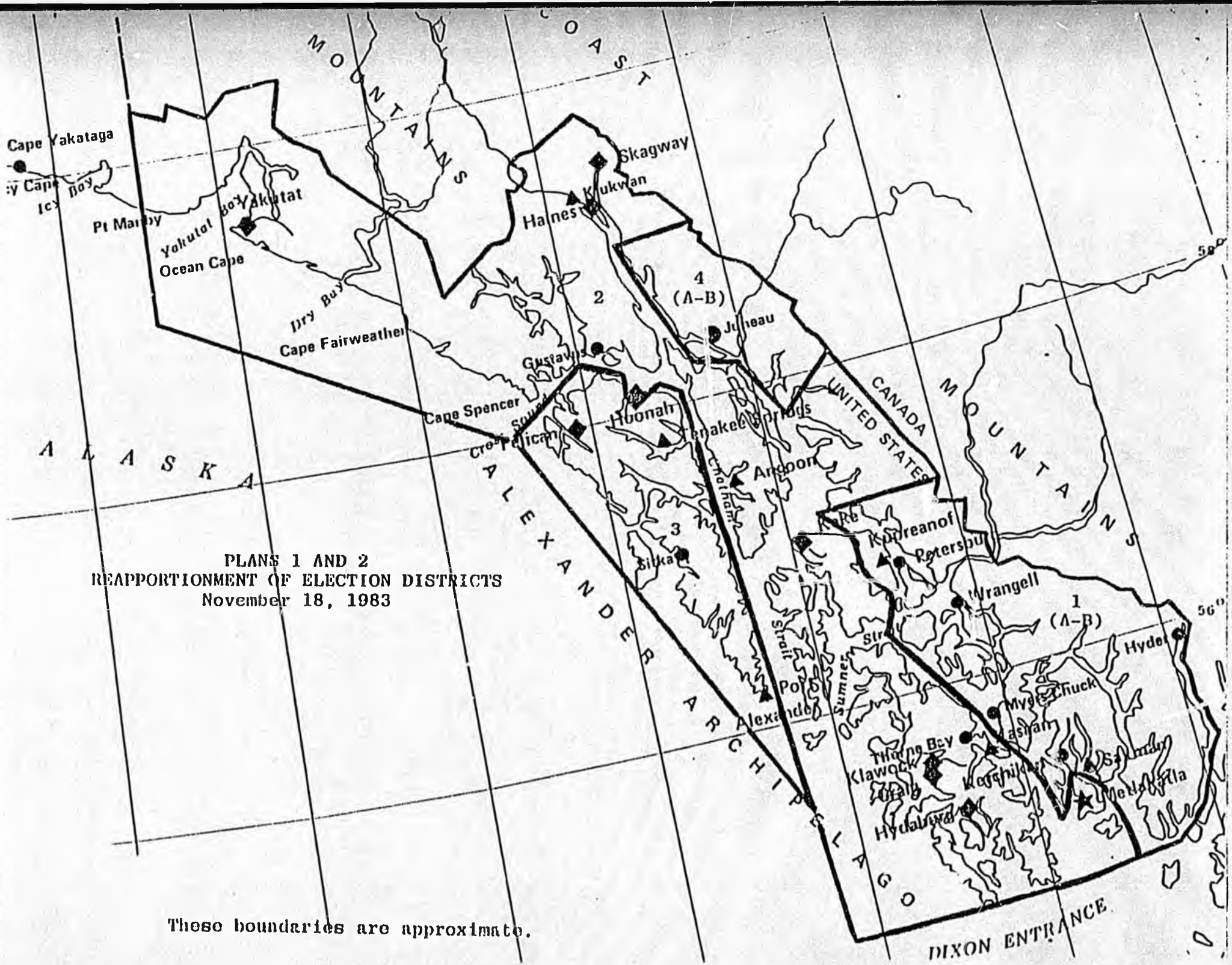
Up to 29% allowed Military as Civilian

Total Population Anchorage U.S. 1980 Census Population
How many Military Figured in if at all
How Are Militar. Counted? Doubt counted if live off base?

| House District | | Name | Population | Population Variance |
|---|---|---|---|---|
| 17. | (1) | Interior Highways | 9,011.57 | -1.8% |
| 18. | (1) | Southeast North Star Borough | 9,300.0 | +1.3% |
| 19. | (1) | Outer Fairbanks | 8,934.3 | -2.6% |
| 20. | Seat A (2)<br>Seat B | Fairbanks City | 18,319.7<br>(9,159.8/seat) | - .2% |
| 21. | (1) | West Fairbanks | 9,247.1 | + .8% |
| 22. | (1) | North Slope-Kotzebue | 8,999.06 | -1.9% |
| 23. | (1) | Norton Sound | 9,338.86 | +1.8% |
| 24. | (1) | Interior Rivers | 8,936.12 | -2.6% |
| 25. | (1) | Lower Kuskokwim | 9,432.35 | +2.8% |
| 26. | (1) | Bristol Bay-Aleutian Islands | 9,157.61 | - .2% |
| 27. | (1) | Kodiak-East Alaska Peninsula | 9,592.40 | +4.53% |
| | | TOTAL POPULATION | 367,050.29 | |
| | | (Less Non-Resident Military and Dependents) | | |

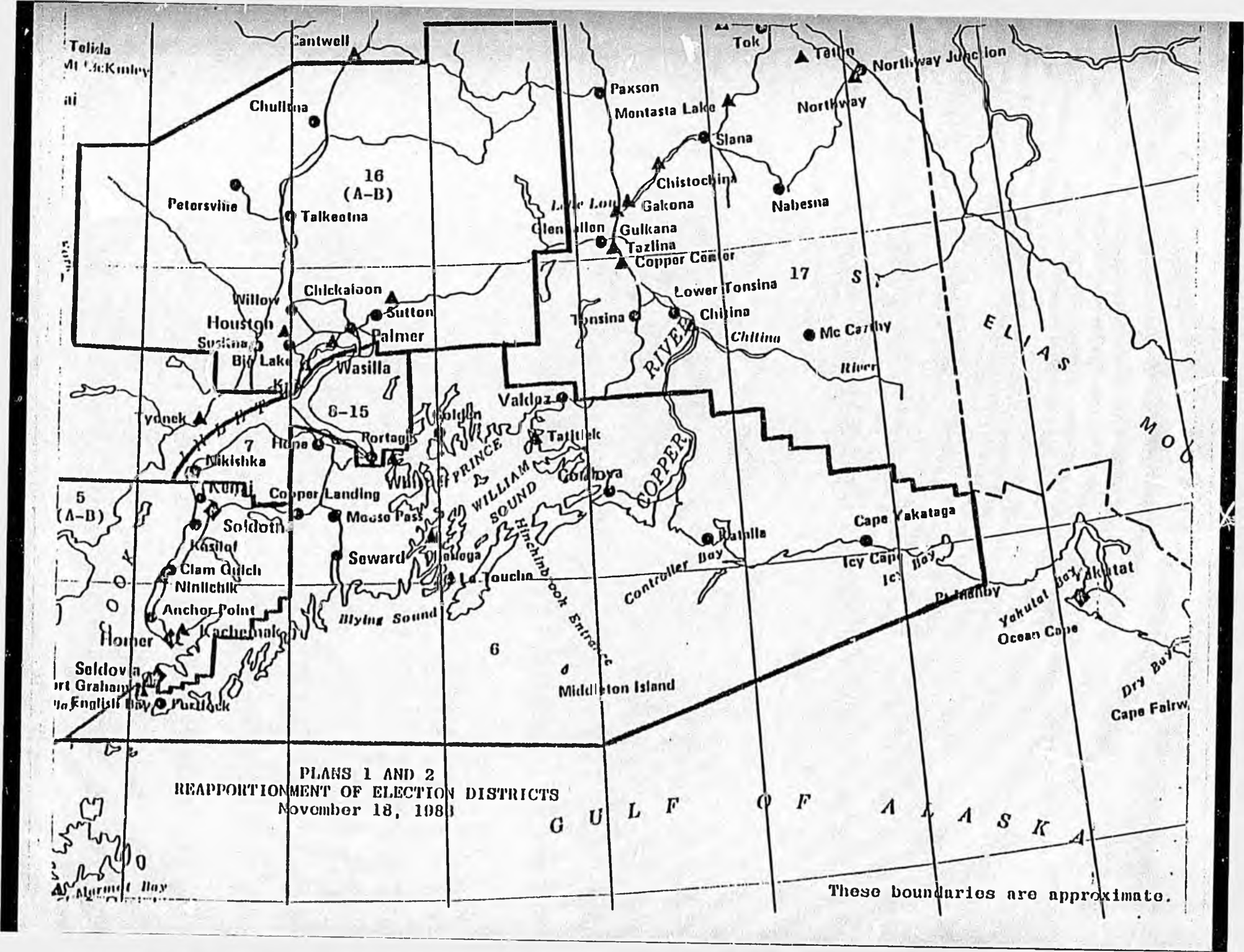
| | | | |
|---|---|---|---|
| Southeast Alaska | Maximum Overpopulation | +5.34% | District 4 |
| | Maximum Underpopulation | -9.5 % | District 1 |
| | Total Combined Variance | 14.84% | |
| Other Districts | Maximum Overpopulation | +4.53% | District 27 |
| | Maximum Underpopulation | -3.87% | District 16 |
| | Total Combined Variance | 8.4 % | |

*These districts were revised in order to make corrections to the 1981 Reapportionment Plan in accordance with Superior Court Judge Milton Souter's order dated October 12, 1983.




PLANS 1 AND 2
REAPPORTIONMENT OF ELECTION DISTRICTS
November 18, 1983

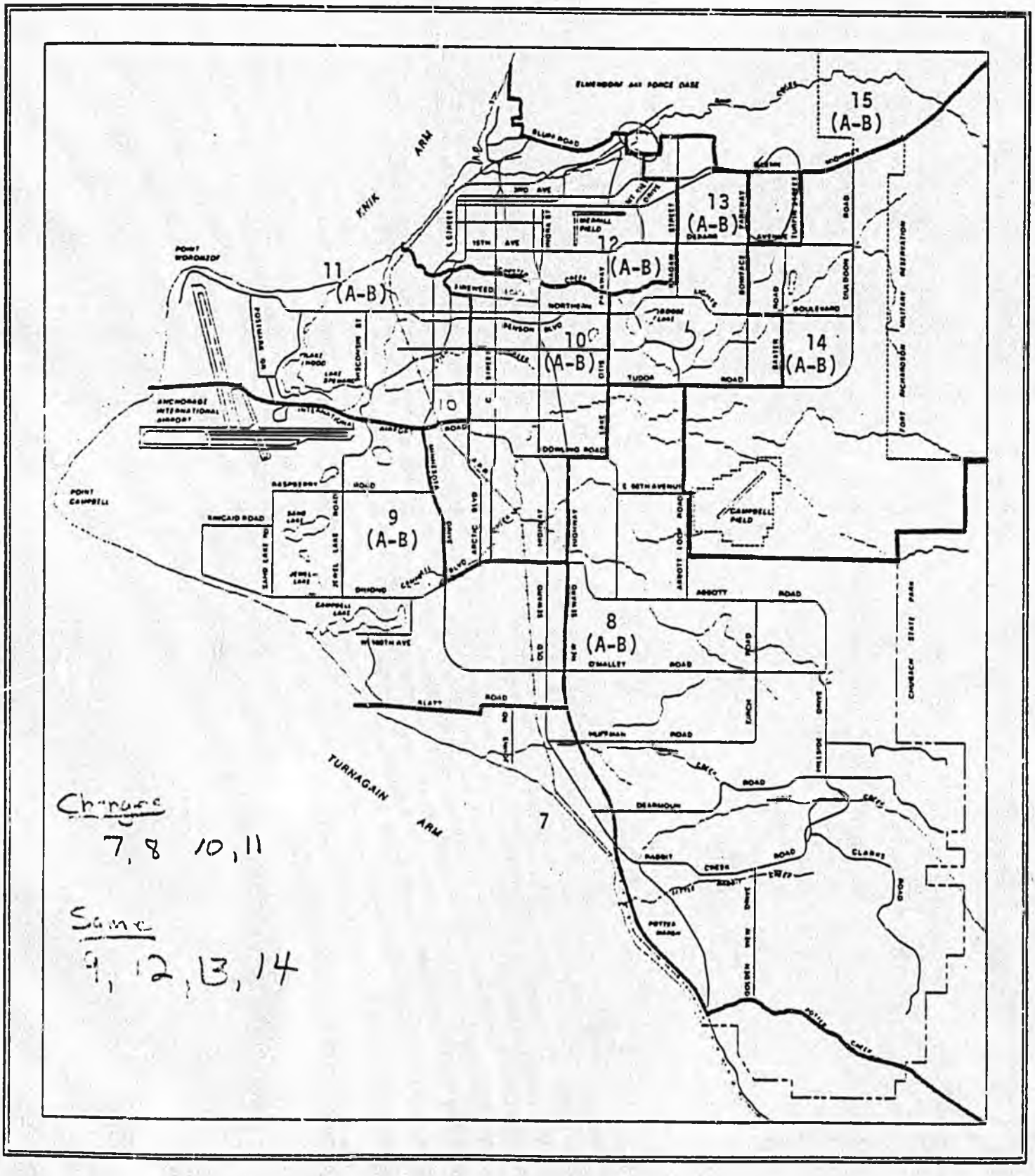
These boundaries are approximate.




PLANS 1 AND 2
REAPPORTIONMENT OF ELECTION DISTRICTS
November 18, 1983

These boundaries are approximate.

PLAN 1
ANCHORAGE ELECTION DISTRICTS
November 18, 1983




These boundaries are approximate.

PLAN 2 - A
REAPPORTIONMENT OF ELECTION DISTRICTS
STATISTICAL SUMMARY
HOUSE DISTRICTS
November 18, 1983

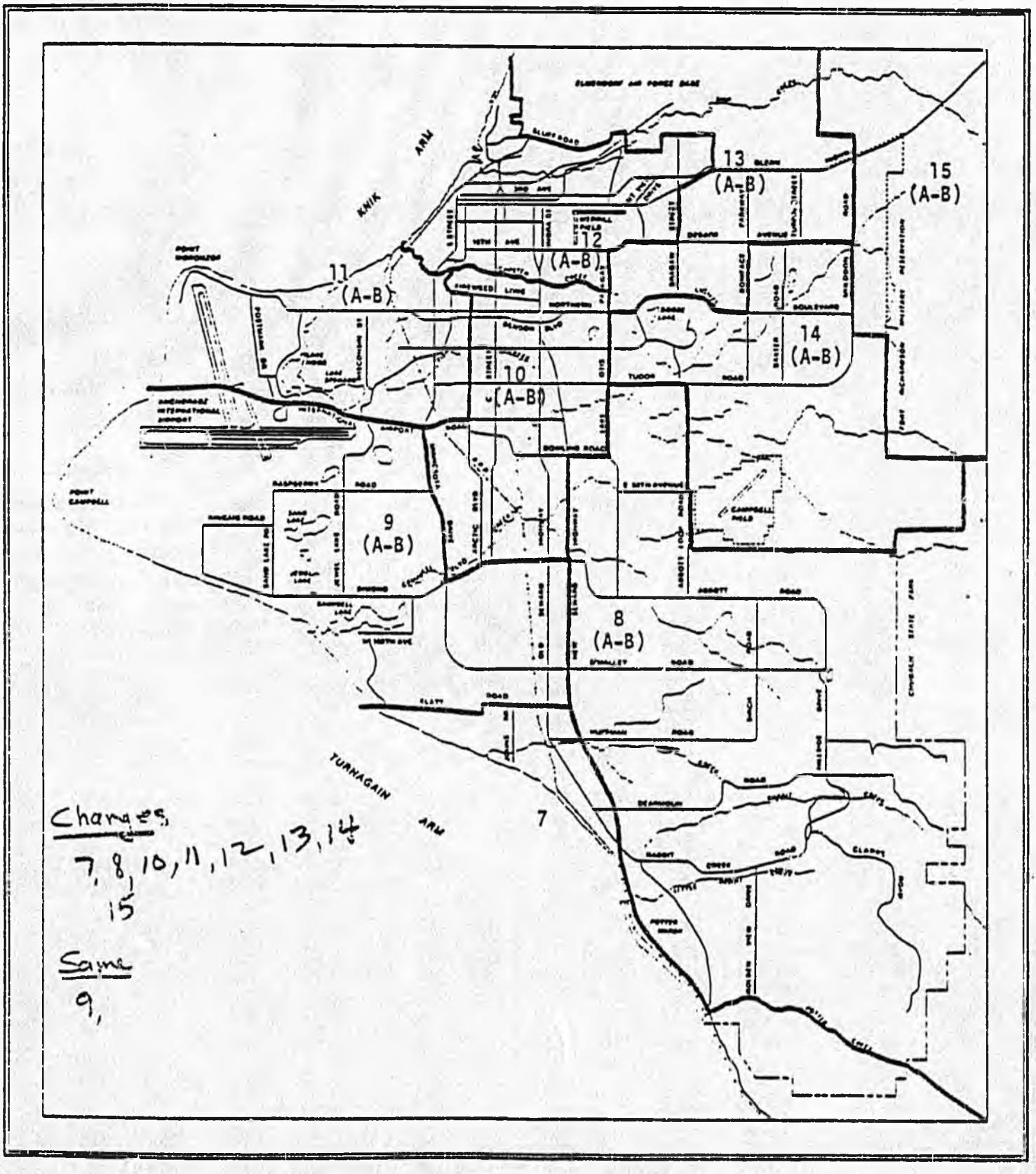
| House District | | Name | Population | Population Variance |
|---|---|---|---|---|
| * 1. | Seat A (2)<br>Seat B | Ketchikan-Wrangell-Petersburg | 16,601.58<br>(8,300.79/seat) | -9.9% |
| * 2. | (1) | Inside Passage | 8,924.35 | -3.1% |
| * 3. | (1) | Baranof-Chichagof | 8,448.97 | -8.3% |
| 4. | Seat A (2)<br>Seat B | Juneau | 19,332.75<br>(9,666.375/seat) | +4.9% |
| * 5. | Seat A (2)<br>Seat B | Kenai-Cook Inlet | 18,711.95<br>(9,355.975/seat) | +1.6% |
| * 6. | (1) | Prince William Sound | 8,906.19 | -3.3% |
| * 7. | (1) | North Kenai-South Anchorage | 9,270.9 | + .6% |
| * 8. | Seat A (2)<br>Seat B | Hillside | 18,269.4<br>(9,134.7/seat) | - .8% |
| 9. | Seat A (2)<br>Seat B | Sand Lake | 18,004.7<br>(9,002.35/seat) | -2.2% |
| *10. | Seat A (2)<br>Seat B | Mid-town | 19,038.1<br>(9,519.05/seat) | +3.3% |
| *11. | Seat A (2)<br>Seat B | Westside | 18,960.4<br>(9,480.2/seat) | +2.9% |
| *12. | Seat A (2)<br>Seat B | Downtown-North Mountain View | 19,268.4<br>(9,634.2/seat) | +4.6% |
| *13. | Seat A (2)<br>Seat B | Elmendorf AFB-Mountain View | 18,891<br>(9,445.5/seat) | +2.5% |
| *14. | Seat A (2)<br>Seat B | University-Muldoon | 19,023.1<br>(9,511.55/seat) | +3.3% |
| *15. | Seat A (2)<br>Seat B | Chugiak-Eagle River-Ft. Richardson | 18,901.2<br>(9,450.6/seat) | +2.6% |
| *16. | Seat A (2)<br>Seat B | Matanuska-Susitna | 17,692.23<br>(8,846.115/seat) | -3.9% |

| House District | | Name | Population | Population Variance |
|---|---|---|---|---|
| *17. | (1) | Interior Highways | 8,917.57 | -3.2% |
| 18. | (1) | Southeast North Star Borough | 9,300.0 | + .9% |
| 19. | (1) | Outer Fairbanks | 8,934.3 | -3.0% |
| 20. | Seat A (2)<br>Seat B | Fairbanks City | 18,319.7<br>(9,159.8/seat) | - .5% |
| 21. | (1) | West Fairbanks | 9,247.1 | + .4% |
| 22. | (1) | North Slope-Kotzebue | 8,999.06 | -2.3% |
| 23. | (1) | Norton Sound | 9,338.86 | +1.4% |
| 24. | (1) | Interior Rivers | 8,936.12 | -3.0% |
| 25. | (1) | Lower Kuskokwim | 9,432.35 | +2.4% |
| 26. | (1) | Bristol Bay-Aleutian Islands | 9,157.61 | - .6% |
| 27. | (1) | Kodiak-East Alaska Peninsula | 9,592.40 | +4.1% |
| | | TOTAL ADJUSTED POPULATION | 368,420.29 | |
| | | (Less Non-Resident Military and Dependents) | | |

| | | | |
|---|---|---|---|
| Southeast Alaska | Maximum Overpopulation | +4.9% | District 4 |
| | Maximum Underpopulation | -9.9% | District 1 |
| | Total Combined Variance | 14.8% | |
| Other Districts | Maximum Overpopulation | +4.6% | District 12 |
| | Maximum Underpopulation | -3.9% | District 16 |
| | Total Combined Variance | 8.5% | |

*Revisions were made in these districts in order to make corrections to the 1981 Reapportionment Plan in accordance with Superior Court Judge Milton Souter's order dated October 12, 1983, and includes technical corrections made to the 1980 census data.

PLAN 2 - A
ANCHORAGE ELECTION DISTRICTS
November 18, 1983




These boundaries are approximate.

PLAN 2 - B
REAPPORTIONMENT OF ELECTION DISTRICTS
STATISTICAL SUMMARY
HOUSE DISTRICTS
November 18, 1983

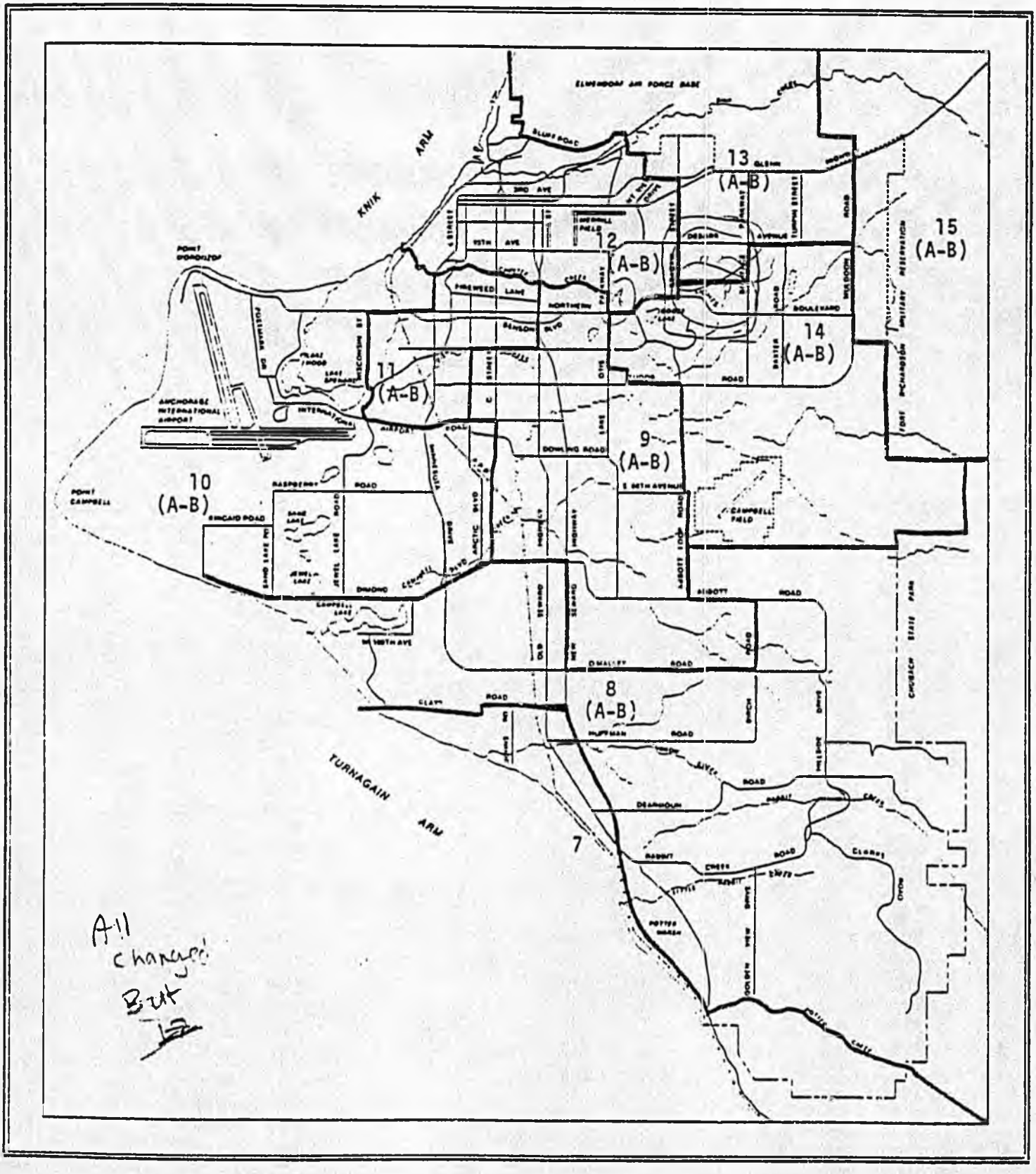
| | House District | Name | Population | Population Variance |
|---|---|---|---|---|
| * 1. | Seat A (2)<br>Seat B | Ketchikan-Wrangell-Petersburg | 16,601.58<br>(8,300.79/seat) | -9.9% |
| * 2. | (1) | Inside Passage | 8,924.35 | -3.1% |
| * 3. | (1) | Baranof-Chichagof | 8,448.97 | -8.3% |
| 4. | Seat A (2)<br>Seat B | Juneau | 19,332.75<br>(9,666.375/seat) | +4.9% |
| * 5. | Seat A (2)<br>Seat B | Kenai-Cook Inlet | 18,711.95<br>(9,355.975/seat) | +1.6% |
| * 6. | (1) | Prince William Sound | 8,906.19 | -3.3% |
| * 7. | (1) | North Kenai-South Anchorage | 9,270.9 | + .6% |
| * 8. | Seat A (2)<br>Seat B | Hillside-Campbell Lake | 18,351.2<br>(9,175.6/seat) | - .4% |
| * 9. | Seat A (2)<br>Seat B | Mid-town | 18,983.8<br>(9,491.9/seat) | +3.05% |
| *10. | Seat A (2)<br>Seat B | Sand Lake-Turnagain | 18,551.7<br>(9,275.85/seat) | + .7% |
| *11. | Seat A (2)<br>Seat B | Spenard | 18,846.5<br>(9,423.25/seat) | +2.3% |
| *12. | Seat A (2)<br>Seat B | Downtown | 18,540.6<br>(9,270.15/seat) | + .6% |
| *13. | Seat A (2)<br>Seat B | Mountain View-Elmendorf AFB | 18,879.4<br>(9,439.7/seat) | +2.5% |
| *14. | Seat A (2)<br>Seat B | Muldoon-University | 19,301.9<br>(9,650.95/seat) | +4.8% |
| *15. | Seat A (2)<br>Seat B | Chugiak-Eagle River-Ft. Richardson | 18,901.2<br>(9,450.6/seat) | +2.6% |
| *16. | Seat A (2)<br>Seat B | Matanuska-Susitna | 17,692.23<br>(8,846.115/seat) | -3.9% |

| | House District | Name | Population | Population Variance |
|---|---|---|---|---|
| *17. | (1) | Interior Highways | 8,917.57 | -3.2% |
| 18. | (1) | Southeast North Star Borough | 9,300.0 | + .9% |
| 19. | (1) | Outer Fairbanks | 8,934.3 | -3.0% |
| 20. | Seat A (2)<br>Seat B | Fairbanks City | 18,319.7<br>(9,159.8/seat) | - .5% |
| 21. | (1) | West Fairbanks | 9,247.1 | + .4% |
| 22. | (1) | North Slope-Kotzebue | 8,999.06 | -2.3% |
| 23. | (1) | Norton Sound | 9,338.86 | +1.4% |
| 24. | (1) | Interior Rivers | 8,936.12 | -3.0% |
| 25. | (1) | Lower Kuskokwim | 9,432.35 | +2.4% |
| 26. | (1) | Bristol Bay-Aleutian Islands | 9,157.61 | - .6% |
| 27. | (1) | Kodiak-East Alaska Peninsula | 9,592.40 | +4.1% |
| | | TOTAL ADJUSTED POPULATION | 368,420.29 | |
| | | (Less Non-Resident Military and Dependents) | | |

| | | | |
|---|---|---|---|
| Southeast Alaska | Maximum Overpopulation | +4.9% | District 4 |
| | Maximum Underpopulation | -9.9% | District 1 |
| | Total Combined Variance | 14.8% | |
| Other Districts | Maximum Overpopulation | +4.8% | District 14 |
| | Maximum Underpopulation | -3.9% | District 16 |
| | Total Combined Variance | 8.7% | |

*Revisions were made in these districts in order to make corrections to the 1981 Reapportionment Plan in accordance with Superior Court Judge Milton Souter's order dated October 12, 1983, and includes technical corrections made to the 1980 census data.

PLAN 2 - B
ANCHORAGE ELECTION DISTRICTS
November 18, 1983




These boundaries are approximate.

PLAN 2 - C
REAPPORTIONMENT OF ELECTION DISTRICTS
STATISTICAL SUMMARY
HOUSE DISTRICTS
November 18, 1983

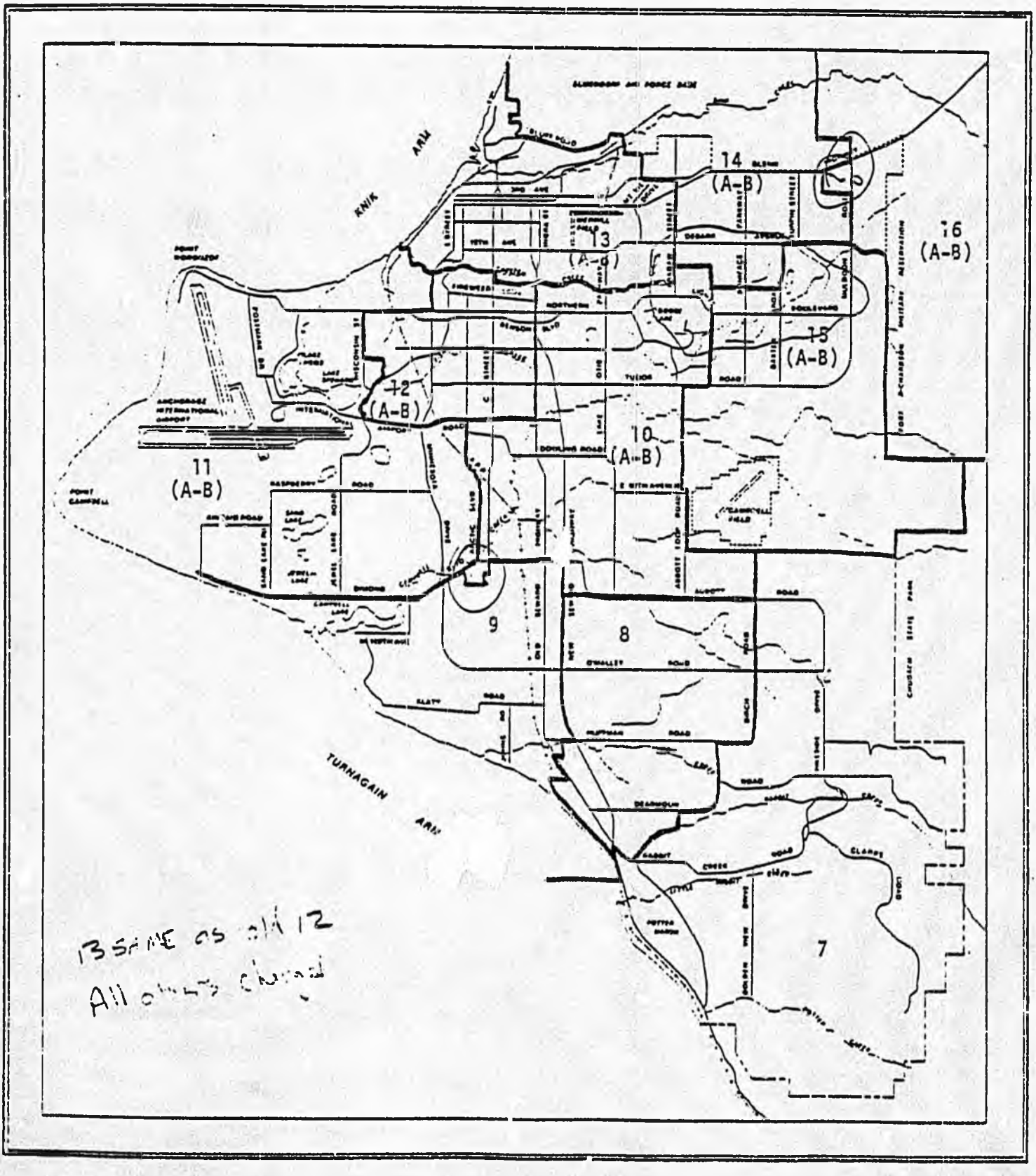
| | House District | Name | Population | Population Variance |
|---|---|---|---|---|
| * 1. | Seat A (2)<br>Seat B | Ketchikan-Wrangell-Petersburg | 16,601.58<br>(8,300.79/seat) | -9.9% |
| * 2. | (1) | Inside Passage | 8,924.35 | -3.1% |
| * 3. | (1) | Baranof-Chichagof | 8,448.97 | -8.3% |
| 4. | Seat A (2)<br>Seat B | Juneau | 19,332.75<br>(9,666.375/seat) | +4.9% |
| * 5. | Seat A (2)<br>Seat B | Kenai-Cook Inlet | 18,711.95<br>(9,355.975/seat) | +1.6% |
| * 6. | (1) | Prince William Sound | 8,906.19 | -3.3% |
| * 7. | (1) | North Kenai-South Anchorage-Upper Hillside | 9,639.9 | +1.6% |
| * 8. | (1) | Lower Hillside | 9,560 | +3.8% |
| * 9. | (1) | Campbell Lake-Oceanview | 9,576.6 | +3.9% |
| *10. | Seat A (2)<br>Seat B | Mid-town | 19,087.2<br>(9,543.6/seat) | +3.6% |
| *11. | Seat A (2)<br>Seat B | Turnagain-Sand Lake | 19,155.9<br>(9,577.95/seat) | +4.0% |
| *12. | Seat A (2)<br>Seat B | Spenard | 18,804.1<br>(9,402.05/seat) | +2.1% |
| *13. | Seat A (2)<br>Seat B | Downtown | 18,678.4<br>(9,339.2/seat) | +1.4% |
| *14. | Seat A (2)<br>Seat B | Elmendorf AFB-Mountain View | 18,464.7<br>(9,232.35/seat) | + .2% |
| *15. | Seat A (2)<br>Seat B | South Muldoon | 18,265.4<br>(9,132.7/seat) | - .8% |
| *16. | Seat A (2)<br>Seat B | Chugiak-Eagle River-Ft. Richardson | 18,395<br>(9,197.5/seat) | - .1% |

| House District | | Name | Population | Population Variance |
|---|---|---|---|---|
| *17. | Seat A (2)<br>Seat B | Matanuska-Susitna | 17,692.23<br>(8,846.115/seat) | -3.9% |
| 18. | (1) | Interior Highways | 8,917.57 | -3.2% |
| 19. | (1) | Southeast North Star Borough | 9,300.0 | + .9% |
| 20. | (1) | Outer Fairbanks | 8,934.3 | -3.0% |
| 21. | Seat A (2)<br>Seat B | Fairbanks City | 18,319.7<br>(9,159.8/seat) | - .5% |
| 22. | (1) | West Fairbanks | 9,247.1 | + .4% |
| 23. | (1) | North Slope-Kotzebue | 8,999.06 | -2.3% |
| 24. | (1) | Norton Sound | 9,338.86 | +1.4% |
| 25. | (1) | Interior Rivers | 8,936.12 | -3.0% |
| 26. | (1) | Lower Kuskokwim | 9,432.35 | +2.4% |
| 27. | (1) | Bristol Bay-Aleutian Islands | 9,157.61 | - .6% |
| 28. | (1) | Kodiak-East Alaska Peninsula | 9,592.40 | +4.1% |
| | | TOTAL ADJUSTED POPULATION | 368,420.29 | |
| | | (Less Non-Resident Military and Dependents) | | |

| | | | |
|---|---|---|---|
| Southeast Alaska | Maximum Overpopulation | +4.9% | District 4 |
| | Maximum Underpopulation | -9.9% | District 1 |
| | Total Combined Variance | 14.8% | |
| Other Districts | Maximum Overpopulation | +4.6% | District 7 |
| | Maximum Underpopulation | -3.9% | District 17 |
| | Total Combined Variance | 8.5% | |

*Revisions were made in these districts in order to make corrections to the 1981 Reapportionment Plan in accordance with Superior Court Judge Milton Souter's order dated October 12, 1983, and includes technical corrections made to the 1980 census data. House Districts 16 through 27 have been renumbered as Districts 17 through 28.

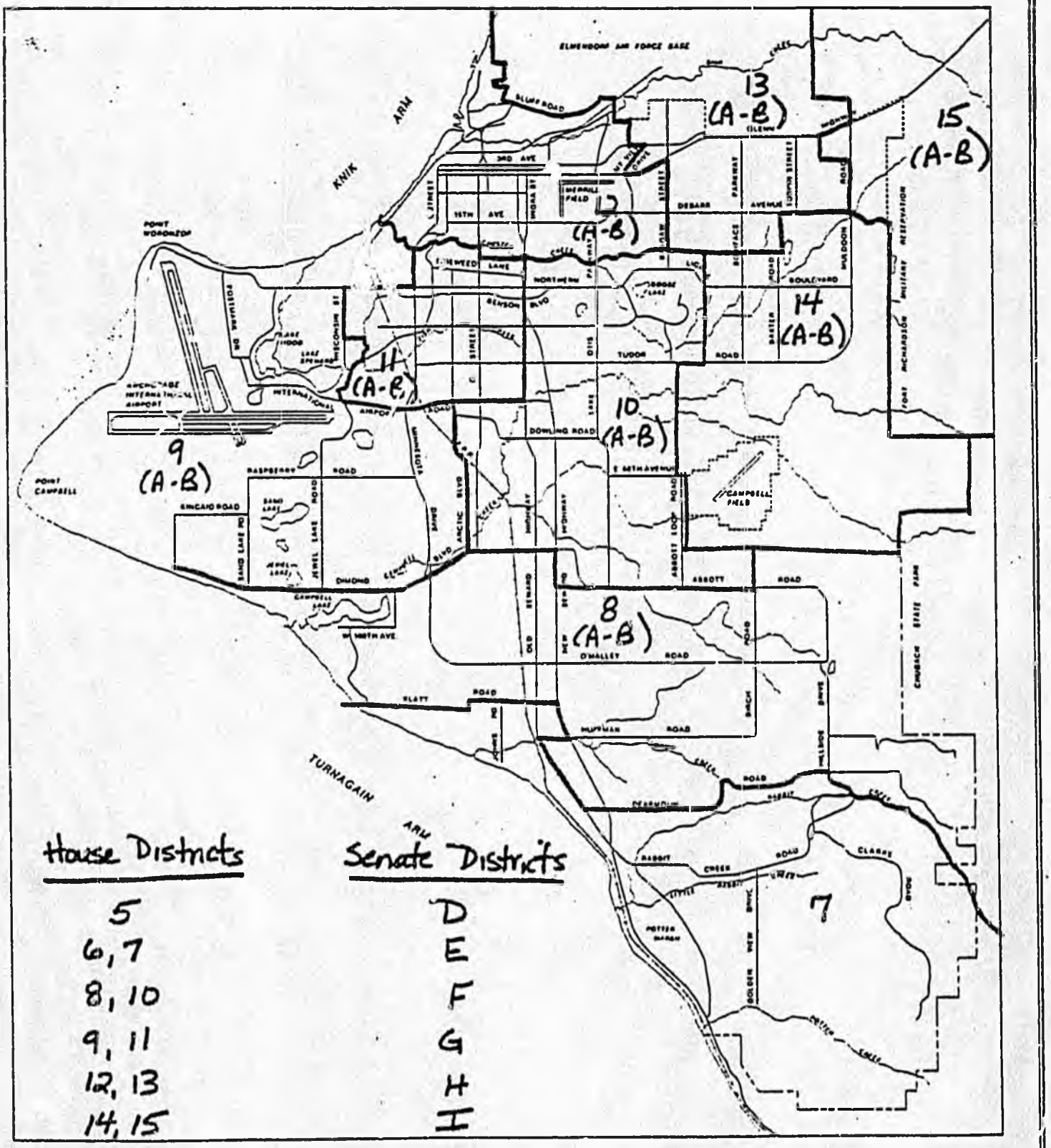
PLAN 2 - C
ANCHORAGE ELECTION DISTRICTS
November 18, 1983




These boundaries are approximate.

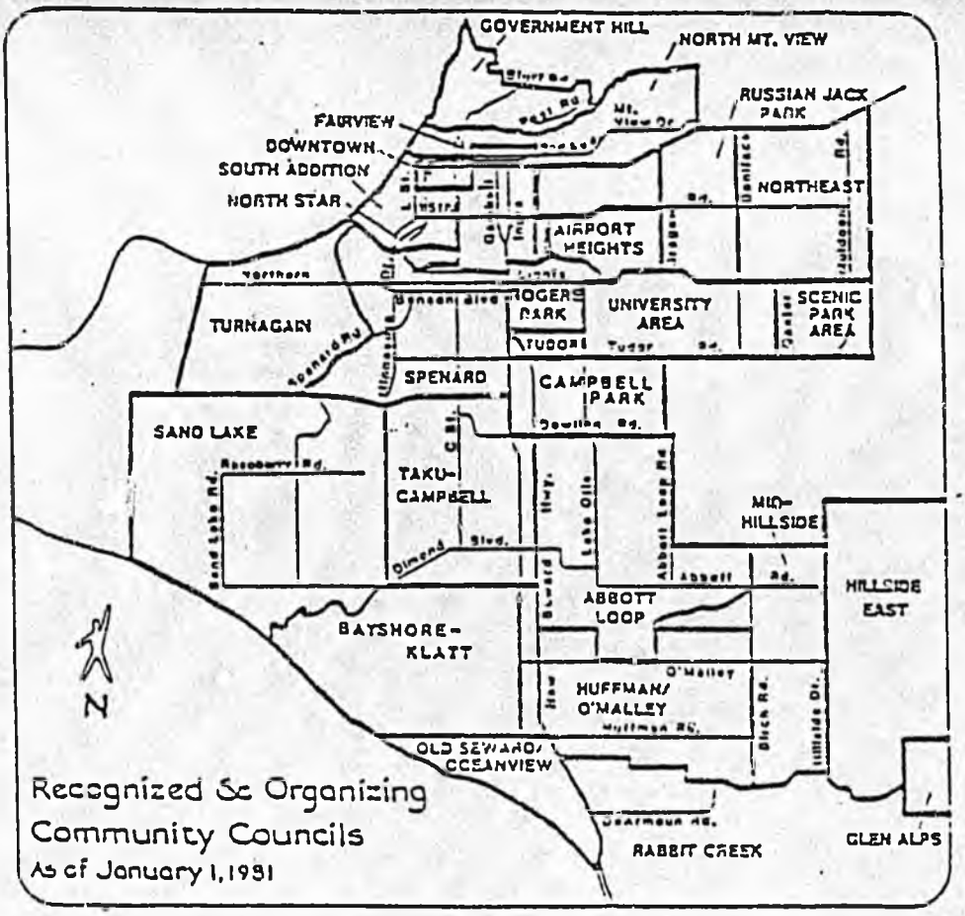
# PLAN 2C - REVISED
# ANCHORAGE ELECTION DISTRICTS
## December 16, 1983

Next Reapportionment Board Meeting Jan 10, 11 in Juneau
Legal Consel will present Board w/ Nikishk arguments by Jan 6th

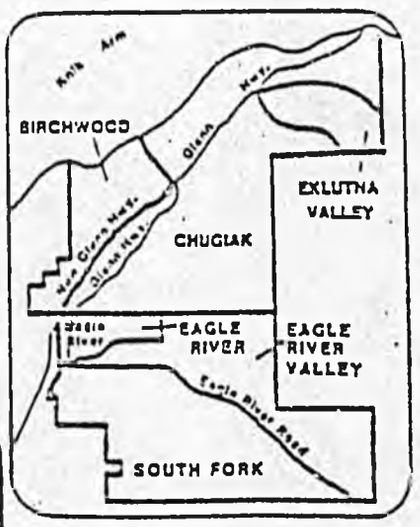


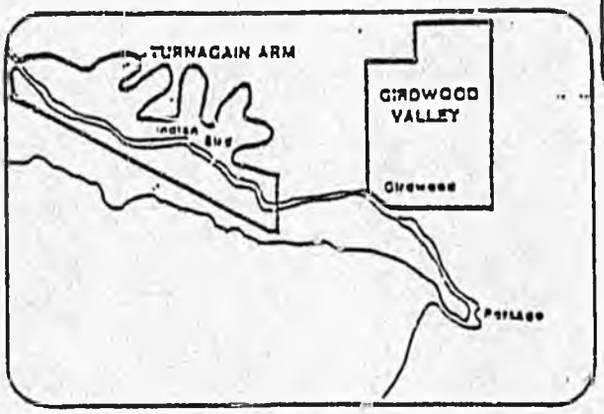

| House Districts | Senate Districts |
|---|---|
| 5 | D |
| 6, 7 | E |
| 8, 10 | F |
| 9, 11 | G |
| 12, 13 | H |
| 14, 15 | I |

These boundaries are approximate.

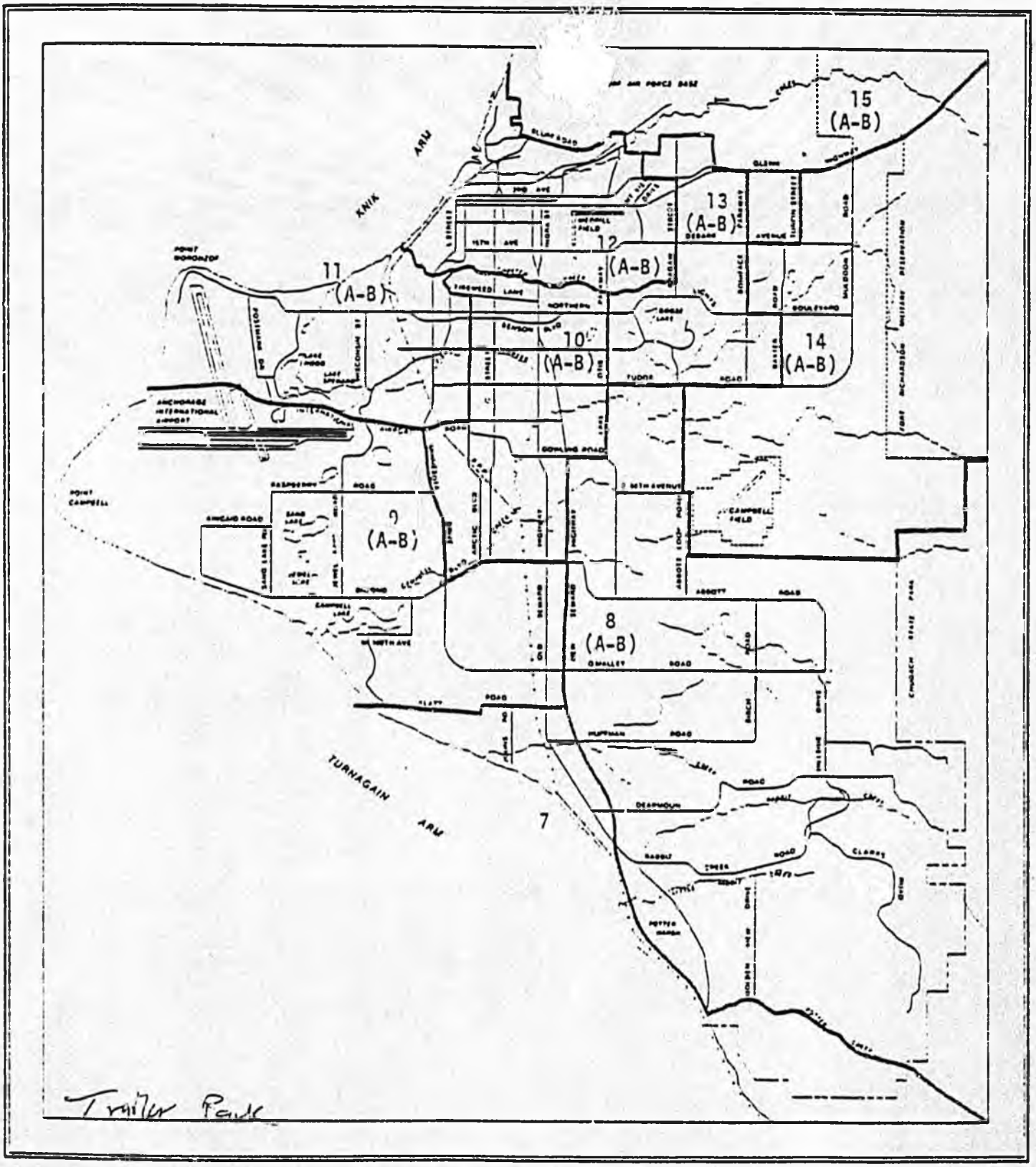



| COMMUNITY COUNCIL | NEIGHBORHOOD CODE | COMMUNITY COUNCIL | NEIGHBORHOOD CODE |
|---|---|---|---|
| ABBOTT LOOP | 001 | MID-HILLSIDE | 016 |
| AIRPORT HEIGHTS | 002 | NORTHEAST | 017 |
| BIRCHWOOD | 003 | NORTH MT. VIEW | 018 |
| CAMPBELL PARK | 004 | NORTH STAR | 019 |
| CHUGIAK | 005 | OLD SEWARD-OCEANVIEW | 020 |
| DOWNTOWN | 006 | RABBIT CREEK | 021 |
| EAGLE RIVER | 007 | ROGERS PARK | 022 |
| EAGLE RIVER VALLEY AND SOUTH FORK | 008 | RUSSIAN JACK PARK | 023 |
| BAYSHORE-KLATT | 010 | SAND LAKE | 024 |
| FAIRVIEW | 011 | SCENIC PARK AREA | 025 |
| GIRDWOOD VALLEY | 012 | SOUTH ADDITION | 026 |
| GOVERNMENT HILL | 013 | SPENARD | 027 |
| HILLSIDE EAST AND GLEN ALPS | 014 | TAKU-CAMPBELL | 028 |
| HUFFMAN-O'MALLEY | 015 | TUDOR AREA | 029 |
| | | TURNAGAIN | 030 |
| | | UNIVERSITY AREA | 031 |



PLAN 1
ANCHORAGE ELECTION DISTRICTS
December 9, 1983




These boundaries are approximate.

1983 Blue Book

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Sitka | 281 | 304 | 336 | 352 | 350 | 379 | 375 | 367 |
| Wrangell-Petersburg | 189 | 289 | 293 | 277 | 345 | 476 | 420 | 414 a |
| Other Areas | 600 | 1,027 | 2,605 | 3,343 | 3,608 | 4,888 | 5,387 | 5,655 a |
| TOTAL | 8,076 | 11,594 | 14,176 | 15,825 | 17,203 | 19,778 | 21,640 | 21,074 |

n = Revised * Excludes Active Duty Military Personnel

a 1980 figures are the average of January to June. 1980 is latest data available at Blue Book deadline.
Source: Alaska Department of Labor.

# POPULATION

## Alaska's Population by Region

| Year | Total Alaska | Southeast | Southcentral | Southwest | Interior | Northwest |
|---|---|---|---|---|---|---|
| 1880 | 33,426 | 7,748 | 4,352 | 13,914 | 2,568 | 4,644 |
| 1890 | 32,052 | 8,038 | 6,112 | 12,071 | 2,333 | 3,498 |
| 1900 | 63,592 | 14,350 | 10,000 | 13,000 | 5,600 | 20,642 |
| 1910 | 64,356 | 15,216 | 12,900 | 12,049 | 13,064 | 11,127 |
| 1920 | 55,036 | 17,402 | 11,173 | 11,641 | 7,964 | 6,956 |
| 1930 | 59,278 | 19,304 | 11,880 | 12,118 | 8,246 | 7,730 |
| 1940 | 72,524 | 25,241 | 14,881 | 12,846 | 10,345 | 9,211 |
| 1950 | 128,643 | 28,203 | 50,093 | 17,715 | 23,008 | 9,624 |
| 1960 | 226,167 | 35,403 | 108,851 | 21,001 | 49,126 | 11,784 |
| 1970 | 300,382 | 42,565 | 162,001 | 26,491 | 56,479 | 12,846 |
| 1974 | 351,159 | 50,232 | 194,569 | 28,165 | 63,151 | 15,042 |
| 1975 | 404,634 | 50,438 | 229,492 | 28,428 | 78,614 | 17,662 |
| 1976 | 413,289 | 51,172 | 244,056 | 28,488 | 68,572 | 21,041 |
| 1977 | 411,211 | 53,162 | 252,836 | 26,512 | 58,208 | 20,493 |
| 1980 | 400,331 | 53,613 | 235,465 | 28,659 | 67,154 | 15,440 |
| 1981 | 435,300 | NA | NA | NA | NA | NA |
| 1982 | 460,037 | NA | NA | NA | NA | NA |

Note: Revised totals and estimates have been made for 1970 forward but are not available by region. They include: 1970 (302,580); 1971 (311,200); 1972 (320,000); 1973 (330,000); 1974 (344,000); 1975 (383,100); 1976 (410,700); 1977 (413,100); 1978 (403,100); 1979 (400,600); 1980 (401,850). These figures and the 1981 and 1982 totals were taken from "Preliminary State Intercensal Estimates," released 24 June 1981 by the Chief, Local Area Population Estimates, U.S. Bureau of the Census. Note that the date of estimation for each year 1971-1979 and 1981, 1982 is July 1st; for 1970 and 1980, the final census figures (rounded to the nearest 1,000) are as of April 1st.

(Source: Alaska Department of Labor)

## Distribution of Total Population by Size of Place

| Size of Place | 1980 Number of Places | 1980 Population | 1980 Percent of Total Population | 1970 Number of Places | 1970 Population | 1970 Percent of Total Population | 1982 Number of Places | 1982 Population | 1982 Percent of Total Population |
|---|---|---|---|---|---|---|---|---|---|
| Places of less than 1,000 | — | 118,448 | 51.5 | — | 117,017 | 39.0 | — | 139,766 | 30.3 |
| 1,000-1,500 | 10 | 12,444 | 5.5 | 13 | 15,170 | 5.1 | 3 | 3,337 | .7 |
| 1,500-2,000 | 4 | 7,032 | 3.1 | 4 | 6,918 | 2.3 | 4 | 7,406 | 1.6 |
| 2,000-2,500 | 2 | 4,478 | 2.0 | 7 | 15,765 | 5.2 | 4 | 9,493 | 2.1 |
| 2,500-5,000 | 3 | 5,865 | 2.6 | 6 | 21,355 | 7.1 | 6 | 25,200 | 5.5 |
| 5,000-10,000 | 3 | 22,354 | 9.9 | 6 | 43,268 | 14.4 | 4 | 27,135 | 5.9 |
| 10,000-25,000 | 1 | 13,311 | 5.8 | 2 | 22,000 | 10.9 | 1 | 22,030 | 4.8 |
| 25,000 or more | 1 | 44,237 | 19.6 | 1 | 40,020 | 18.0 | 2 | 220,470 | 49.1 |

Note: The population listed for "places of less than 1,000" includes people living near to but not within the boundaries of larger communities as well as those living in small towns or small gatherings. (Source: Department of Labor)

Dept. Labor
3301 Eagle
Room 309

Off Benson
Rt on Denali
left on 3rd

## Estimated components of Net Change in Alaska's Population

| Year | Total Population | Net Change | Net Civilian Migration | Natural Increase | Net Military Migration |
|---|---|---|---|---|---|
| 1950 | 138,000 | — | — | — | — |
| 1955 | 221,000 | 83,000 | 34,900 | 24,100 | 24,000 |
| 1960 | 226,000 | 5,000 | 11,100 | 31,900 | (15,800) |
| 1965 | 265,000 | 39,000 | 4,000 | 34,500 | 500 |
| 1970 | 300,382 | 37,382 | 14,972 | 25,410 | (3,000) |
| 1975* | 383,100 | 80,520 | 57,830 | 28,190 | (5,500) |
| 1980* | 401,850 | 18,750 | (13,380) | 33,640 | (1,510) |

Source: Estimate from Alaska Regional Population and Employment, G.W. Rogers.
Source Note: Unless otherwise noted, all population statistics for 1980 and prior years are from G.W. Rogers and R.A. Cooley, Alaska's Population and Economy and Alaska Department of Labor.

*Revised by Alaska Department of Labor

## Major Components of Alaska's Population Growth

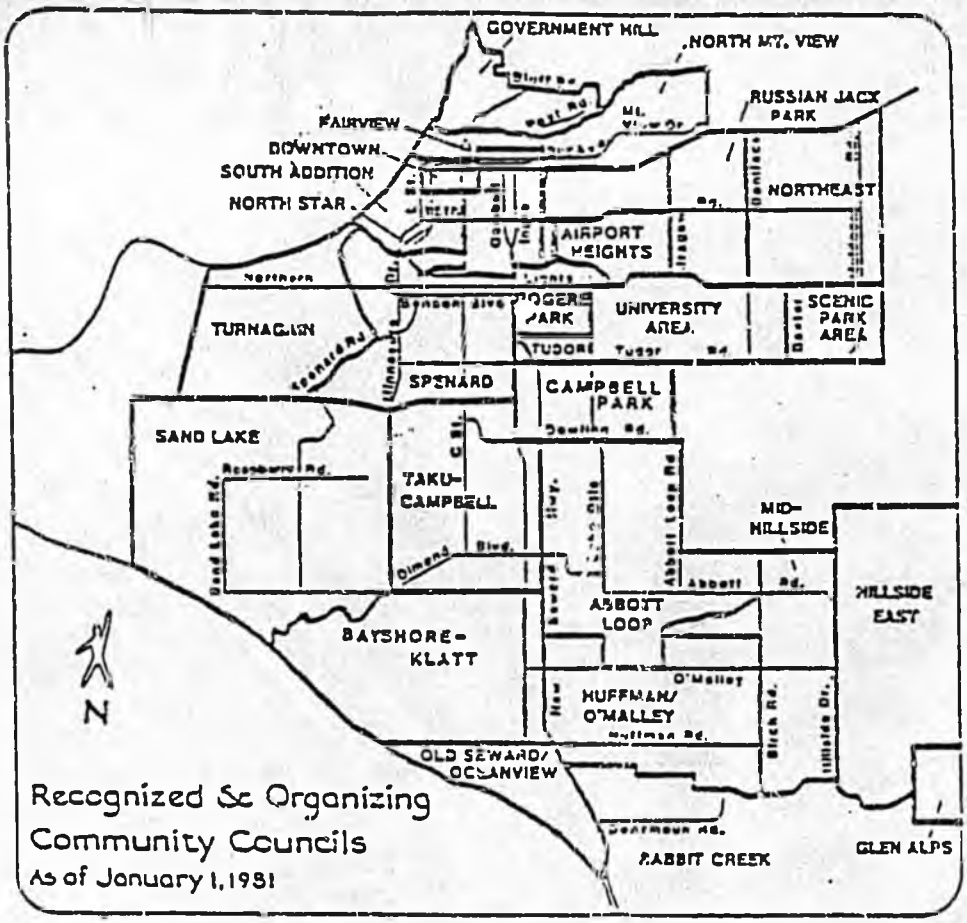
| Year | Alaska | Native | Non-Native | Military |
|---|---|---|---|---|
| 1880 | 33,426 | 32,996 | 430 | — |
| 1890 | 32,052 | 25,354 | 4,298 | — |
| 1900 | 63,592 | 29,542 | 30,450 | — |
| 1910 | 64,356 | 25,331 | 36,400 | — |
| 1920 | 55,036 | 26,558 | 28,228 | 250 |
| 1930 | 59,278 | 29,983 | 29,045 | 250 |
| 1940 | 72,524 | 32,458 | 39,566 | 500 |
| 1950 | 128,643 | 33,863 | 74,373 | 20,407 |
| 1960 | 226,167 | 43,081 | 150,394 | 32,692 |
| 1970 | 300,382 | 50,554 | 219,828 | 30,000 |
| 1980 | 401,851 | 63,867 | 315,981 | 22,003 |

(Source 1980 population figures: Alaska Department of Labor)

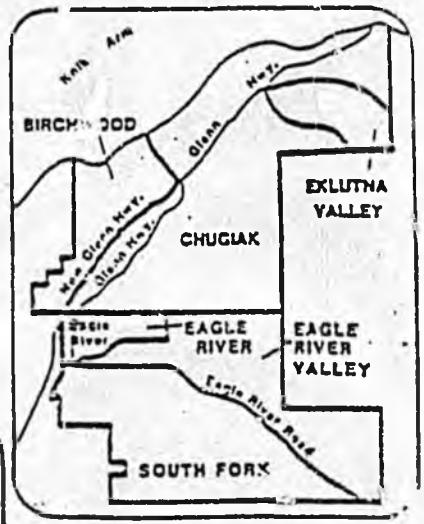
## Persons by Sex, Race, and Age

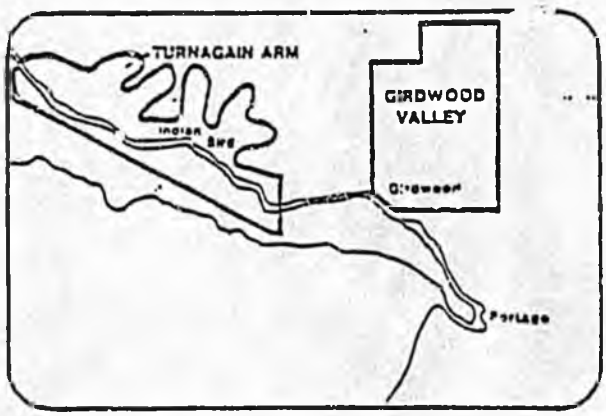
| | ALL RACES | | | WHITE | | | BLACK | | | OTHER RACES | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | BOTH SEXES | MALE | FEMALE | BOTH SEXES | MALE | FEMALE | BOTH SEXES | MALE | FEMALE | BOTH SEXES | MALE | FEMALE |
| TOTAL | 400481 | 212321 | 188160 | 308455 | 164918 | 143539 | 13819 | 7663 | 5958 | 78407 | 39740 | 38665 |
| Under 5 Years Old | 38777 | 19944 | 18833 | 28043 | 14413 | 13602 | 1587 | 891 | 696 | 9147 | 4702 | 4445 |
| 5 to 9 Years Old | 34917 | 17897 | 17020 | 25366 | 13018 | 12348 | 1377 | 816 | 561 | 8174 | 4211 | 4113 |
| 10 to 14 Years Old | 34166 | 17624 | 16542 | 23758 | 12201 | 11557 | 1003 | 499 | 504 | 8405 | 4424 | 4181 |
| 15 to 19 Years Old | 36560 | 18743 | 17237 | 26321 | 13716 | 12107 | 1190 | 656 | 534 | 9049 | 4373 | 4596 |
| 20 to 24 Years Old | 45013 | 24153 | 20905 | 34130 | 18283 | 15847 | 2483 | 1505 | 978 | 8575 | 4365 | 4160 |
| 25 to 29 Years Old | 48542 | 25579 | 23013 | 34899 | 20504 | 14395 | 2148 | 1268 | 878 | 7497 | 3757 | 3740 |
| 30 to 34 Years Old | 41918 | 22561 | 19355 | 34644 | 18954 | 15790 | 1178 | 729 | 450 | 5096 | 2878 | 3116 |
| 35 to 39 Years Old | 31182 | 17001 | 14181 | 25864 | 14279 | 11585 | 742 | 423 | 319 | 4576 | 2299 | 2277 |
| 40 to 44 Years Old | 22570 | 12416 | 10160 | 19149 | 10237 | 8912 | 593 | 335 | 258 | 3828 | 1838 | 1990 |
| 45 to 49 Years Old | 18355 | 9956 | 8399 | [illegible] | 8179 | 6611 | 457 | 252 | 205 | 3150 | 1525 | 1583 |
| 50 to 54 Years Old | 15401 | 8484 | 7117 | 12867 | 7218 | 5649 | 347 | 187 | 160 | 2487 | 1279 | 1208 |
| 55 to 59 Years Old | 12597 | 6769 | 5828 | 10211 | 5577 | 4634 | 264 | 137 | 129 | 2111 | 1155 | 1036 |
| 60 to 64 Years Old | 8095 | 4297 | 3798 | 6636 | 3504 | 2932 | 166 | 86 | 80 | 1493 | 707 | 786 |
| 65 to 69 Years Old | 5151 | 2731 | 2420 | 3762 | 2000 | 1762 | 100 | 56 | 44 | 1329 | 675 | 654 |
| 70 to 74 Years Old | 3109 | 1541 | 1568 | 2186 | 1060 | 1126 | 63 | 22 | 33 | 858 | 418 | 407 |
| 75 to 79 Years Old | 1843 | 884 | 959 | 1279 | 575 | 664 | 33 | 18 | 15 | 571 | 291 | 280 |
| 80 to 84 Years Old | 769 | 350 | 419 | 515 | 235 | 280 | 7 | 1 | 6 | 237 | 114 | 123 |
| 85 to 89 Years Old | 618 | 247 | 371 | 409 | 145 | 264 | 8 | 2 | 6 | 201 | 100 | 101 |
| Under 15 Years Old | 107860 | 55465 | 52395 | 77467 | 40152 | 37315 | 3947 | 1976 | 1971 | 26446 | 13337 | 13109 |
| 15 to 64 Years Old | 281091 | 151103 | 129988 | 222465 | 120749 | 101716 | 9486 | 5578 | 3908 | 49137 | 24776 | 24361 |
| 65 Years or Older | 11530 | 5753 | 5777 | 8173 | 4015 | 4158 | 213 | 109 | 104 | 3154 | 1629 | 1525 |

* Figures are based upon preliminary totals. The revised total population for Alaska is 401,851.




| COMMUNITY COUNCIL | NEIGHBORHOOD CODE | COMMUNITY COUNCIL | NEIGHBORHOOD CODE |
|---|---|---|---|
| ABBOTT LOOP | 001 | MID-HILLSIDE | 016 |
| AIRPORT HEIGHTS | 002 | NORTHEAST | 017 |
| BIRCHWOOD | 003 | NORTH MT. VIEW | 018 |
| CAMPBELL PARK | 004 | NORTH STAR | 019 |
| CHUGIAK | 005 | OLD SEWARD-OCEANVIEW | 020 |
| EKLUTNA | 006 | RABBIT CREEK | 021 |
| EAGLE RIVER | 007 | ROGERS PARK | 022 |
| EAGLE RIVER VALLEY AND SOUTH FORK | 008 | RUSSIAN JACK PARK | 023 |
| BAYSHORE-KLATT | 010 | SAND LAKE | 024 |
| FAIRVIEW | 011 | SCENIC PARK AREA | 025 |
| GIRDWOOD VALLEY | 012 | SOUTH ADDITION | 026 |
| GOVERNMENT HILL | 013 | SPENARD | 027 |
| HILLSIDE EAST AND GLEN ALPS | 014 | TAKU-CAMPBELL | 028 |
| HUFFMAN-O'MALLEY | 015 | TUDOR AREA | 029 |
| | | TURNAGAIN | 030 |
| | | UNIVERSITY AREA | 031 |



REDISTRICTING AND FINAL TAB DIFFERENCE OF 1370 FOR STATE 02 - ALASKA  DATE 111781  PAGE 1

| COUNTY R | NAME EEEES | ANCHORAGE CTY | MCD | REDISTRICTING FILE PLACE | TRACT | BLK | POP | FINAL TAB FILE BLK | POP | EEEES | CTY | MCD | PLACE | TRACT | PARENT ED |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 3008B | 020 | 025 | 0140 | 0002 | TOT | 1248 | TOT | 2662 | 3008B | 020 | 025 | 0140 | 0002 | 3008B |
| | | | | | | 101 | 485 | 101 | 1325 | 3008B | 020 | | | | |
| | | | | | | 102 | 0 | 102 | 0 | 3008B | 020 | | | | |
| | | | | | | 103 | 0 | 103 | 0 | 3008B | 020 | | | | |
| | | | | | | 104 | 9 | 104 | 46 | 3008B | 020 | | | | |
| | | | | | | 105 | 0 | 105 | 10 | 3008B | 020 | | | | |
| | | | | | | 116 | 4 | 116 | 16 | 3008B | 020 | | | | |
| | | | | | | 117 | 0 | 117 | 0 | 3008B | 020 | | | | |
| | | | | | | 118 | 34 | 118 | 34 | 3008B | 020 | | | | |
| | | | | | | 141 | 26 | 141 | 26 | 3008B | 020 | | | | |
| | | | | | | 142 | 3 | 142 | 3 | 3008B | 020 | | | | |
| | | | | | | 154 | 0 | 154 | 0 | 3008B | 020 | | | | |
| | | | | | | 155 | 99 | 155 | 99 | 3008B | 020 | | | | |
| | | | | | | 156 | 28 | 156 | 28 | 3008B | 020 | | | | |
| | | | | | | 157 | 0 | 157 | 29 | 3008B | 020 | | | | |
| | | | | | | 158 | 121 | 158 | 121 | 3008B | 020 | | | | |
| | | | | | | 159 | 0 | 159 | 0 | 3008B | 020 | | | | |
| | | | | | | 160 | 17 | 160 | 17 | 3008B | 020 | | | | |
| | | | | | | 161 | 79 | 161 | 79 | 3008B | 020 | | | | |
| | | | | | | 162 | 118 | 162 | 118 | 3008B | 020 | | | | |
| | | | | | | 163 | 5 | 163 | 24 | 3008B | 020 | | | | |
| | | | | | | 164 | 9 | 164 | 46 | 3008B | 020 | | | | |
| | | | | | | 188 | 5 | 188 | 5 | 3008B | 020 | | | | |
| | | | | | | 189 | 0 | 189 | 0 | 3008B | 020 | | | | |
| | | | | | | 190 | 4 | 190 | 16 | 3008B | 020 | | | | |
| | | | | | | 191 | 9 | 191 | 67 | 3008B | 020 | | | | |
| | | | | | | 192 | 21 | 192 | 65 | 3008B | 020 | | | | |
| | | | | | | 193 | 89 | 193 | 89 | 3008B | 020 | | | | |
| | | | | | | 194 | 3 | 194 | 48 | 3008B | 020 | | | | |
| | | | | | | 195 | 4 | 195 | 29 | 3008B | 020 | | | | |
| | | | | | | 196 | 6 | 196 | 22 | 3008B | 020 | | | | |
| | | | | | | 197 | 0 | 197 | 12 | 3008B | 020 | | | | |
| | | | | | | 198 | 70 | 198 | 268 | 3008B | 020 | | | | |

Corp limits
add 1,414

A letter w/ this information was sent to Lt. Gov. Terry Miller + Karen Ward (Rehfeld) on Sept. 15, 1981

REDISTRICTING AND FINAL TAB DIFFERENCE OF 1370 FOR STATE 02 - ALASKA DATE 111781 PAGE 2

| COUNTY NAME MATANUSKA-SU REDISTRICTING FILE ---> | | | | | | | | <---------- FINAL TAB FILE ----------> | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| R | EEEES | CTY | MCD | PLACE | TRACT | BLK | POP | BLK | POP | EEEES | CTY | MCD | PLACE | TRACT | PARENT ED |
| | 1168 | 170 | 025 | 9999 | 999999 | TOT | 4134 | TOT | 4184 | 1168 | 170 | 025 | 9999 | 999999 | |

Mat-Su

add 50

COUNTY NAME PRINCE OF WA REDISTRICTING FILE ---><---------- FINAL TAB FILE ---------->

| R | EEEES | CTY | MCD | PLACE | TRACT | BLK | POP | BLK | POP | EEEES | CTY | MCD | PLACE | TRACT | PARENT ED |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1015 | 201 | 050 | 9999 | 999999 | TOT | 0 | TOT | 320 | 1015 | 201 | 050 | 9999 | 999999 | 1025 |
| | 1025 | 201 | 050 | 9999 | 999999 | TOT | 403 | TOT | 83 | 1025 | 201 | 050 | 9999 | 999999 | 1025 |

reallocation of population for Thorne Bay

| COUNTY NAME | SOUTHEAST FA REDISTRICTING FILE ---> | | | | | | | FINAL TAB FILE ---------- | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| R | EEEES | CTY | MCD | PLACE | TRACT | BLK | POP | BLK | POP | EEEES | CTY | MCD | PLACE | TRACT | PARENT ED |
| | 0833 | 240 | 025 | 9999 | 999999 | TOT | 94 | TOT | 0 | 0833 | 240 | 025 | 9999 | 999999 | |

END OF LISTING

DIST 17

subtract 94

Anchorage Daily News

359, 252 PAGES ANCHORAGE, ALASKA SUNDAY, DECEMBER 25, 1983 PRI

# Booming economy makes Alaska the fastest-growing state

By RONNIE CHAPPELL
Daily News correspondent

The largest influx of people in Alaska history pushed the state's population past 500,000 in 1983 and confirmed Alaska as the fastest growing state in the nation.

The Alaska Department of Labor last year estimated the state's population at 460,037. This year, the five largest cities and boroughs in the state have reported combined population increases of 49,799 — which alone would push Alaska over the 500,000 mark. The state will not release an official estimate until February.

"If growth continues at the same rate (as in 1982) we're going to be over 500,000 in 1983," said Jo Van Patten, an economist in the state Department of Labor.

The population boom between the 1980-to-1983 period exceeds the leaps of the Gold Rush, World War II and the pipeline era.

"In sheer numbers this would be the greatest influx," said John Whitehead, associate professor of history at the University of Alaska, Fairbanks. "In the past, it has taken at least a decade to add 100,000 people to the state's population.

Based on figures provided by the Alaska Department of Labor and local governments throughout the state, The Daily News estimates the state's population at 505,000, an increase of more than 100,000 since the 1980 U.S. Census.

The Department of Labor does not base its population estimates solely on figures supplied by Alaska communities. The figures are suspect because communities receive state revenue-sharing money on the basis of population. They have an incentive to report the highest possible populations, Van Patten said.

For that reason, Van Patten checks the figures against a formula based on elementary school enrollments, housing starts and deaths.

In addition, the burgeoning population has expanded by more than 40,000 jobs since 1980.

Those new jobs are a byproduct of subsidized home loans, permanent fund dividends, an increasing state payroll and massive government construction.

See Page A-8, GROWTH

# Growth

Continued from Page A-1

struction budgets, according to a new report by the labor department.

Experts agree that $14 billion in state spending — about 1½ times the amount spent on the trans-Alaska pipeline — is the underlying cause of the boom.

Despite recent population gains, Alaska remains the smallest state, trailing Vermont, which had 518,000 people in July 1982.

But Alaska, with a population increase of more than 10 percent between 1980 and 1982, is the fastest growing. In the same period, Vermont's population grew 1.3 percent.

If the Alaska economy continues its present pace for one more year, Vermont could be the smallest state in the nation by the end of 1984.

In Alaska, the Matanuska-Susitna Borough is the fastest growing area in the nation's fastest-growing state. Its population is up 71 percent since 1980 from 17,316 to 30,568.

During the same period, Anchorage added 56,415 people, an increase of 32 percent, for a total of 230,846.

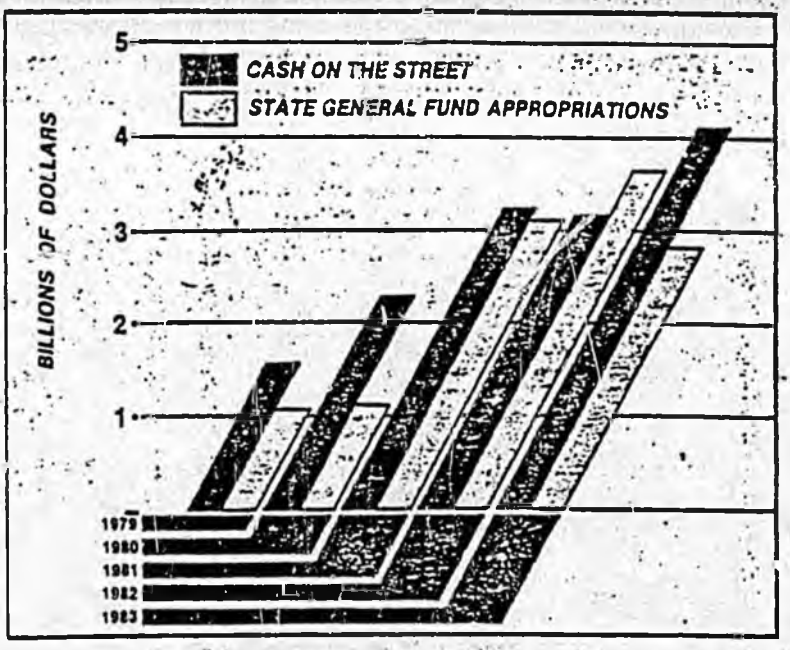
The population of the Kenai Peninsula is up 38 percent, Fairbanks is up 20 percent and Juneau is up 40 percent.

Rural Alaska is growing too, but at more moderate rates.

Rapid growth in the 1980s has not hit Alaska with the sudden, sledgehammer force of the pipeline years. Because it has come independent of a single mammoth project that focuses public attention, the growth has been felt area by area without being noted as a major statewide phenomenon.

In Anchorage, commuters are spending more time driving to and from work. School enrollment in Palmer is growing so fast that after the holidays some children will return to classes in a National Guard Armory. Vacancy signs are disappearing in Fairbanks and developers are building apartments again.

In Soldotna, the spruce trees behind Ellington's Hardware have been replaced by a McDonald's, a pizza restaurant, a Safeway and a 21-store mall.




"It was kind of scary at first," said store owner Joan Ellington. But "after doing some reading about other places this has happened, we realized it could double our business."

Still, the changes amaze Ellington.

"It makes you wonder what's down here to bring all these people," she said.

The answer to her question is simple.

Work.

One clerk at Ellington's Hardware has been in the state 16 months. She came with her husband and four children. The other clerk arrived four years ago with five other family members.

Thousands of people are coming to Alaska to escape a bitter recession that has produced bread lines and soup kitchens in other parts of the country. They are leaving old jobs to find better ones.

"Economic opportunity is the No. 1 reason they're coming," said Neal Fried, an economist for the Alaska Department of Labor. "People have heard about wages. They've heard about the pipeline. Many have relatives here who tell them to come."

For many, the move has been a good one.

"There is a lot of opportunity for people here," Fried said. "But it is not a job market with a shortage of people. Unemployment hasn't come down."

In fact, despite the addition of 40,000 jobs to the economy, the unemployment rate actually increased from 9.3 percent to 10.1 percent during the last two years. Nearly 4,000 more people are looking for work in Alaska today than in 1981.

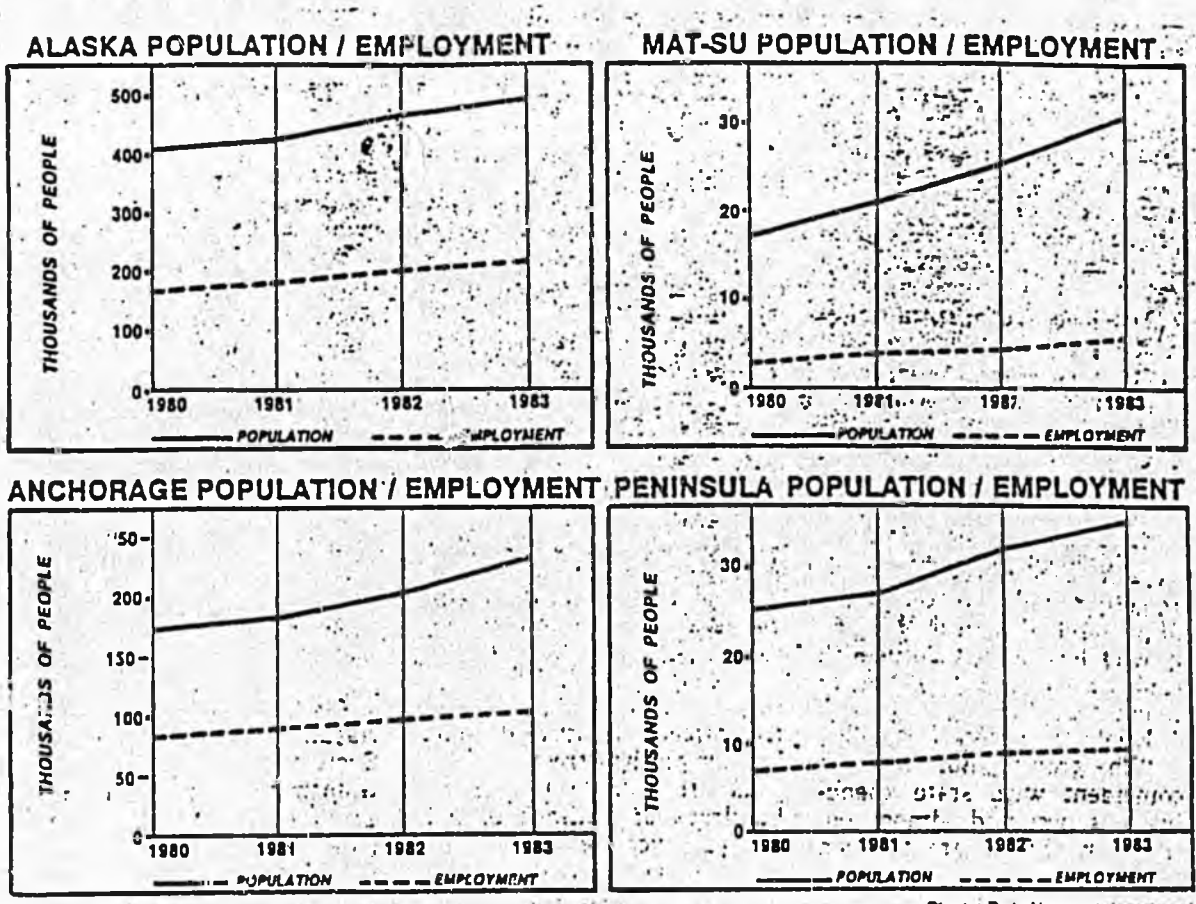
Still, it is better to be unemployed in Alaska than in the idle factory towns of Michigan or logging communities of northern Idaho. The chances of finding work in an expanding economy are better than in a stagnant one, Fried said.

Huge numbers of new Alaskans are not finding jobs in the oil, fishing and timber industries. Instead, they are working as carpenters, roofers, electricians, store managers, clerks, waitresses, cooks, gas station attendants, lawyers, engineers, surveyors, real estate agents, reporters, teachers. Some have started new businesses.

Two thousand jobs have been created on the Kenai Peninsula despite the lack of significant growth in the oil and fishing industries.

People are working in new shopping centers, in new restaurants, gift shops, nurseries, computer stores and sporting goods outlets. Oldtimers are starting to complain that downtown Soldotna looks like Northern Lights Boulevard in Anchorage.

Residential and commercial construction reached all-time highs in 1983. Homer Electric Association added 1,500 new




Charts: Daily News art department

customers.

Sales tax revenues generated on retail sales in Kenai and Soldotna are up 40 percent over 1982.

"What's happening here is being evidenced everywhere else in Alaska," said Frank McIlhargey of the borough resource development office. "We're in the midst of a government-dollar-generated boom."

Assessing the effect of massive government spending on the economy is difficult. It was made easier in 1982 when economists Gregg Erickson and Tom Singer developed a way to track the money pumped into the economy by state government.

The result is a series of multi-billion dollar totals — based on checks actually issued by the treasury — that Erickson and Singer call Cash-on-the-Street.

Cash-on-the-Street includes loans by the Alaska Housing Finance Corp. and other state agencies, permanent fund dividends, the salaries paid state employees, operation and maintenance costs, general fund and bond financed capital projects.

the permanent fund.

In four of the last five years, Cash-on-the-Street exceeded state general fund appropriations — the figure most often referred to as a measure of state spending.

In a September 1983 report, the state Department of Labor observed that "Alaska employment is closely correlated with Cash-on-the-Street. In a statistical sense, 95 percent of the growth in employment from 1978 through the first half of 1983 is explained by growth in Cash-on-the-Street."

According to Erickson and Singer, "statistical evidence suggests that state spending now accounts for 44 percent of Alaska personal income."

Cash-on-the-Street has increased steadily from $1.5 billion in fiscal year 1979 to $4 billion in 1983. It peaked during a three-month period in the summer of 1982 when the state paid $1.3 billion to people and businesses in Alaska.

Cash-on-the-Street does not affect employment and population immediately, the economists said. There is a six-month to one-year lag, which means this year's boom is the

It is unlikely that Cash-on-the-Street will again reach the record levels of 1982, according to the Labor department report. Oil revenues have declined since 1980 and state spending is down. North Slope production will fall off sharply after 1990. One-third of the known reserves in Prudhoe Bay have already been pumped through the pipeline.

The looming question now is what happens to the state's economy when the state can no longer afford subsidized loans, permanent fund dividends and huge expenditures on capital projects.

"Nobody really knows what's going to happen," said Scott Goldsmith, an enonomist with the Institute of Economic and Social Research at the University of Alaska.

"I've got to believe some of the small new businesses are operating right at the margin now. When Cash-on-the-Street tails off, those marginal businesses are going to start hurting and go under."

But Goldsmith says he doesn't see a bust in the future.

The economic contraction that follows a decline in state

# Alaska becomes nation's fastest-growing state

Continued from Page A-8

spending won't be "as immediate and dramatic as the growth has been," Goldsmith said. "Businesses will try to tough it out."

Erickson agrees.

"The growth that has been coincident with state spending has occurred almost entirely in service areas" such as retail trade, communications and transportation, Erickson said.

"There is some reason to think that won't be lost. It depends on where and how fast declines in state spending occur and it depends on how much faith people have in Alaska."

The service sector of the economy is population sensitive. If people remain in Alaska despite a decrease in their standard of living, if they are willing to make do with less disposable income, then chances are good the economy can be weaned from state spending without too much social dislocation, Erickson said.

He also pointed out that:

• Much of the recent growth was needed. Compared to similar markets in other parts of the nation, the service economy in Alaska was underdeveloped.

• Alaska's basic industrial base will not be affected by contraction of state spending. Oil field employment may actually increase as production declines.

• Even today, construction is not a big part of the state economy. Construction employment is the same today — in terms of percentage of total labor force — as it was in 1963.

• There has been no five-year period since 1950 in which the service sector didn't add more jobs to the state economy than the industrial sector.

If policy makers better understood the relationship between state spending and the economy, Erickson believes, they could mitigate the negative effects of future declines in Cash-on-the-Street.

Is it wise to spend hundreds of millions of dollars each year on new capital projects? On permanent fund dividends? On subsidized loans? Should the state spend money to keep down local property taxes? What is best for the economy? Which appropriations have the biggest effect, per dollar expended, on employment?

Without answers to questions like these, Erickson said, state leaders can't hope to soften the effects of future state spending cuts on the economy.

Right now, no one is seriously trying to find the answers. "There's been no institutional support for this kind of research," Erickson said.

Big spending cuts are inevitable because oil income is rapidly declining. That fact becomes apparent when state revenue projections are adjusted for inflation.

According to Matt Berman of the Institute for Social and Economic Research, oil revenues will decline 50 percent — in terms of 1982 dollars — by the early 1990s.

Nothing on the horizon is capable of replacing the revenue now provided by oil. Even royalty income generated by the proposed Alaska Natural Gas Transportation System will not be sufficient, Goldsmith said. Offshore oil exploration is taking place on federal leases.

By the mid-1990s, interest income generated by the permanent fund will be the state's second largest revenue source. How big a revenue source it becomes depends on how much money is set aside today.

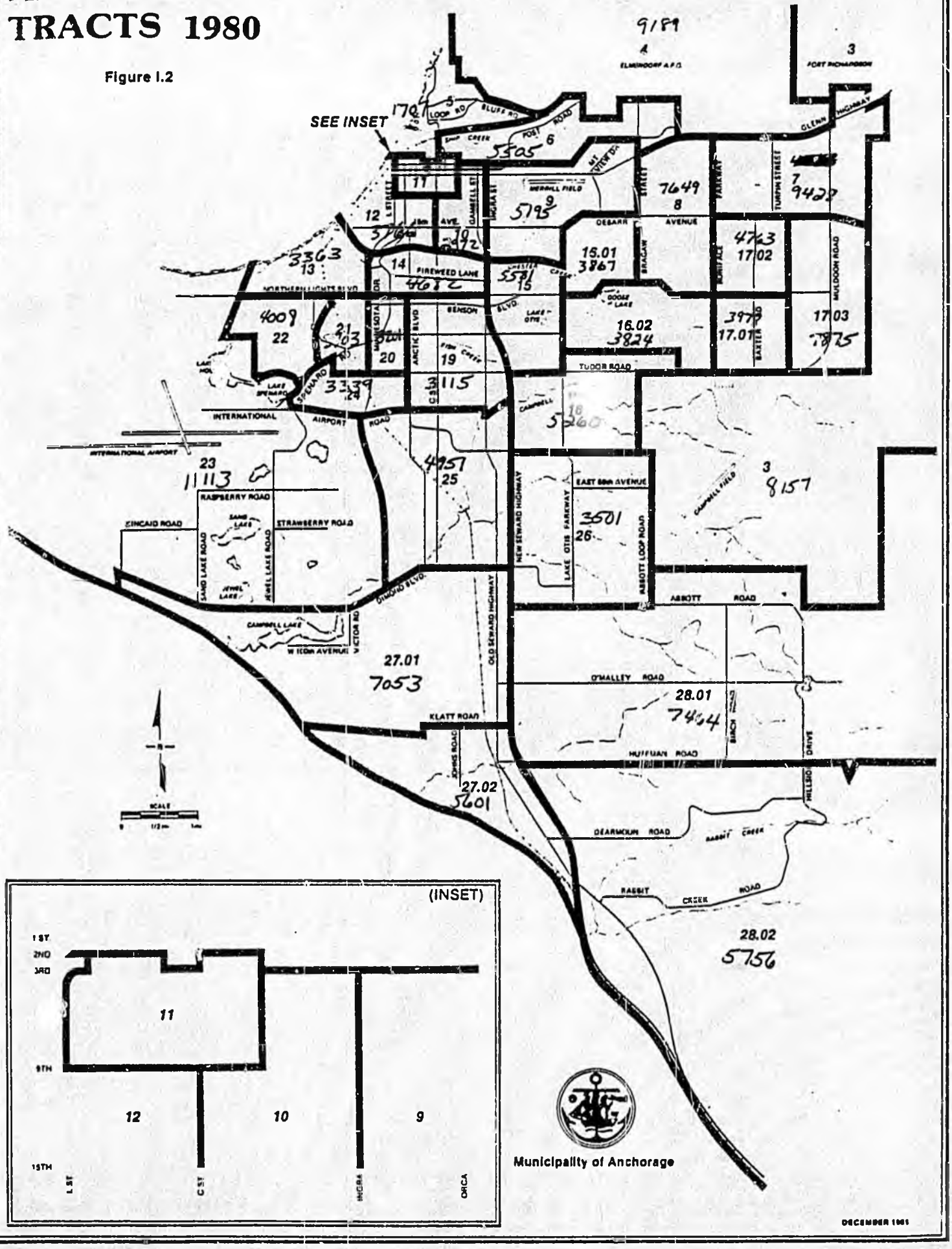
"Alaska has already enjoyed five years of Prudhoe Bay production. In six to eight years, production will decline significantly.

The choices facing lawmakers now are difficult. Should they maintain the state's thriving economy over the next few years by continuing to pump huge amounts of money into the marketplace? Or should they cut state spending today to keep the cost of basic government services affordable after 1990? Is there any way to accomodate these seemingly incompatible goals?

"There are no easy answers," Goldsmith said.

# ANCHORAGE CENSUS TRACTS 1980

Figure I.2

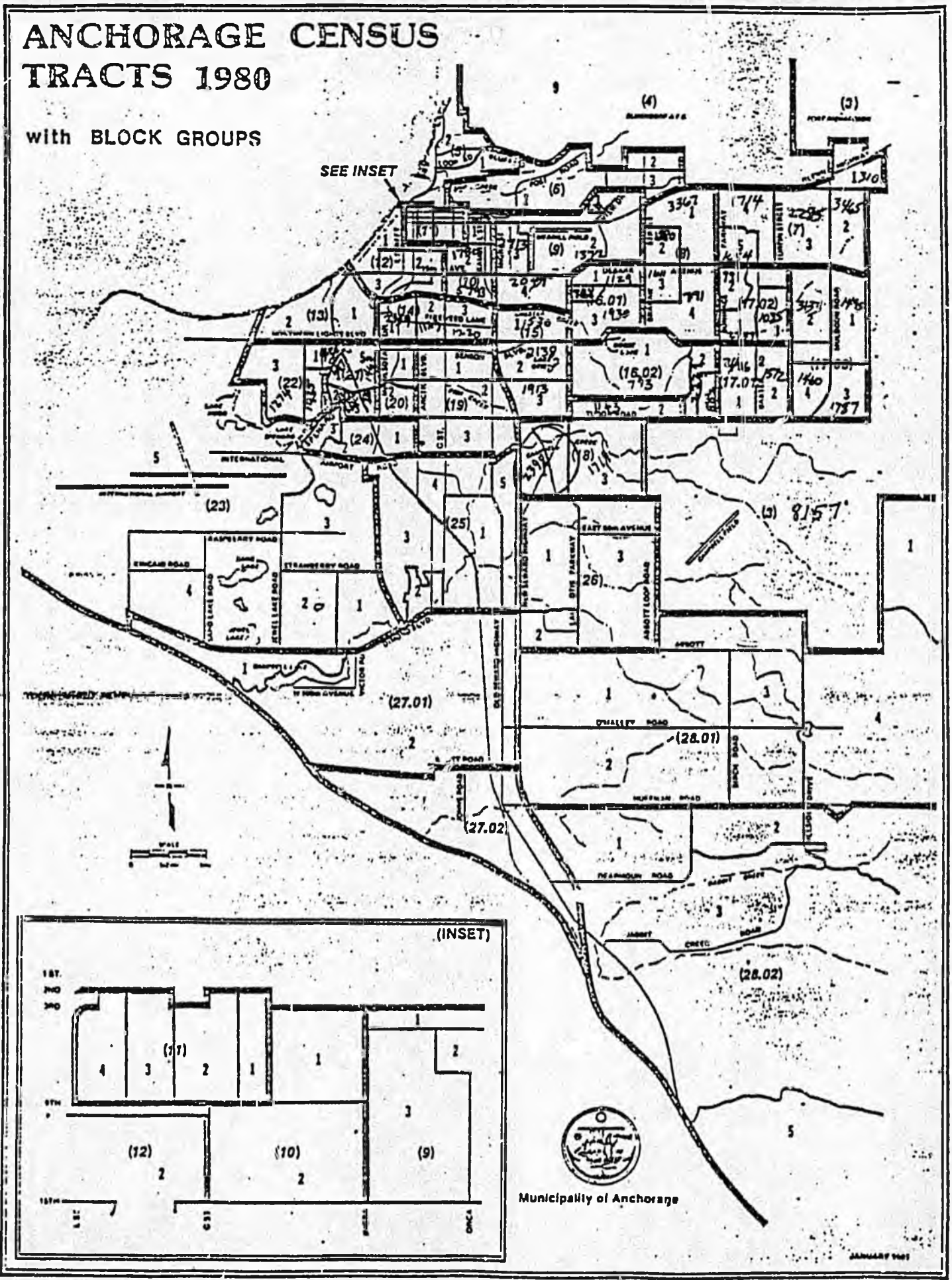



Municipality of Anchorage

DECEMBER 1981

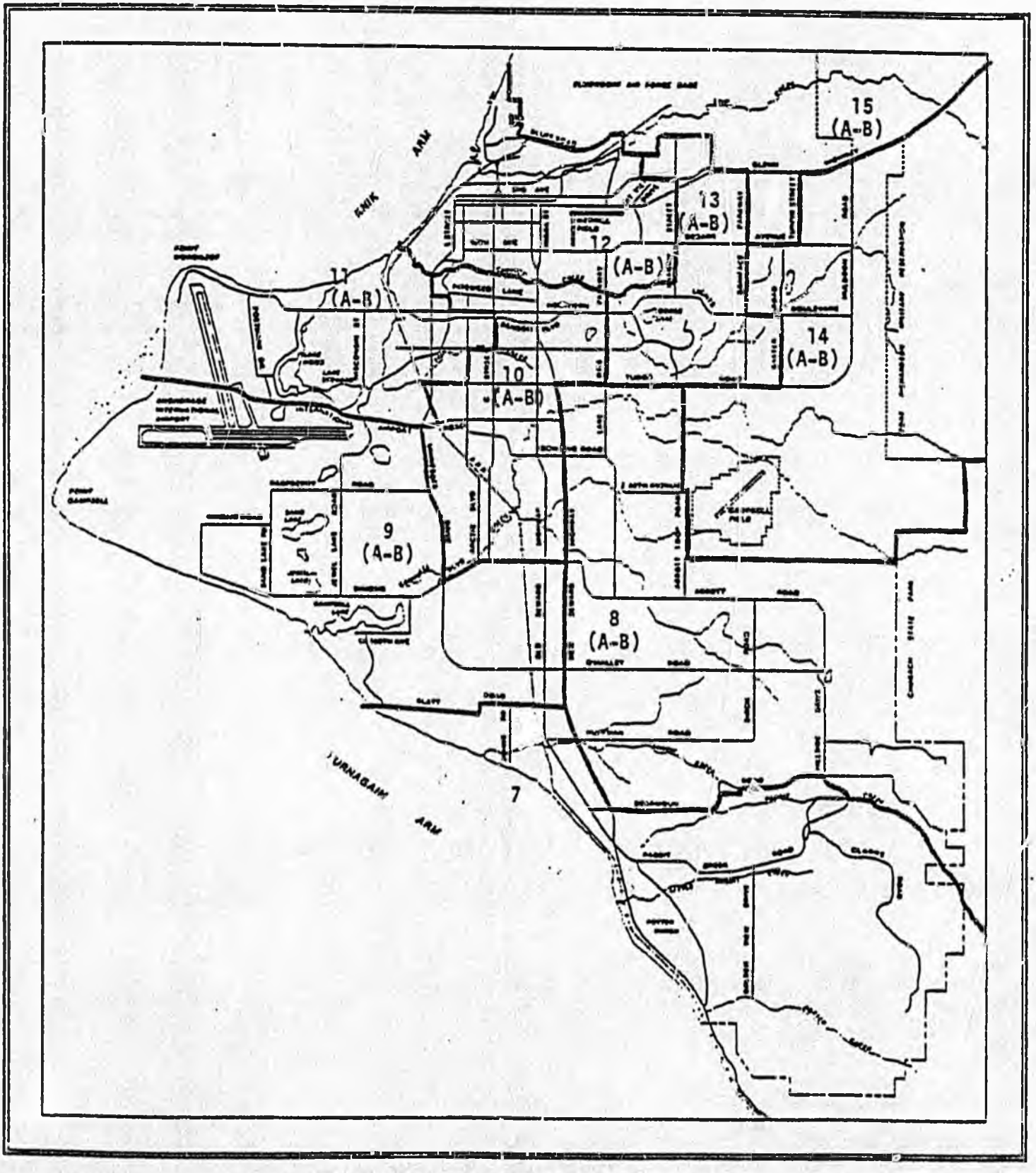
# ANCHORAGE CENSUS TRACTS 1980

with BLOCK GROUPS




4/21/81

# 1981 ANCHORAGE ELECTION DISTRICTS




These boundaries are approximate.

# POPULATION BY 1980 CENSUS TRACTS
## 1970, 1980, 1981, 1982, 1983

| Tract | | Population[1] 1970 | Population[1] 1980 | Population[2] 1981 | Population[2] 1982 | Population[2] 1983 |
|---|---|---|---|---|---|---|
| 1.00 | Chugiak | 2,851 | 5,330 | 5,538 | 5,871 | 8,208 |
| 2.00 | Eagle River | 2,981 | 7,528 | 8,787 | 9,106 | 13,741 |
| 3.00 | Fort Richardson | 10,751 | 8,157 | 8,821 | 8,672 | 7,855 |
| 4.00 | Elmendorf AFB | 13,280 | 9,189 | 9,080 | 8,956 | 9,451 |
| 5.00 | | 3,378 | 1,707 | 2,071 | 2,371 | 2,695 |
| 6.00 | | 5,522 | 5,505 | 6,178 | 6,108 | 7,125 |
| 7.00 | | 7,060 | 9,428 | 10,172 | 11,331 | 11,664 |
| 8.00 | | 5,153 | 7,649 | 8,950 | 10,335 | 9,946 |
| 9.00 | | 3,845 | 5,195 | 5,613 | 5,759 | 6,859 |
| 10.00 | | 3,369 | 2,972 | 3,272 | 3,825 | 4,315 |
| 11.00 | | 2,118 | 1,131 | 1,202 | 1,275 | 1,595 |
| 12.00 | | 4,248 | 3,766 | 3,968 | 4,594 | 4,958 |
| 13.00 | | 3,183 | 3,363 | 3,555 | 3,927 | 3,585 |
| 14.00 | | 5,021 | 4,682 | 5,400 | 5,773 | 5,880 |
| 15.00 | | 4,696 | 5,581 | 5,473 | 5,945 | 5,824 |
| 16.01 | | 3,559 | 3,867 | 3,943 | 4,045 | 4,247 |
| 16.02 | | 1,482 | 3,824 | 4,189 | 4,438 | 4,164 |
| 17.01 | | 975 | 3,978 | 4,055 | 4,981 | 4,858 |
| 17.02 | | 3,864 | 4,763 | 5,104 | 5,281 | 5,716 |
| 17.03 | | 3,123 | 7,875 | 8,576 | 9,107 | 10,162 |
| 18.00 | | 3,054 | 5,260 | 6,067 | 5,174 | 7,093 |
| 19.00 | | 1,776 | 3,115 | 3,725 | 4,010 | 4,150 |
| 20.00 | | 4,322 | 3,201 | 3,592 | 3,904 | 3,981 |
| 21.00 | | 4,481 | 3,703 | 3,796 | 3,729 | 4,586 |
| 22.00 | | 2,741 | 4,003 | 4,309 | 5,810 | 6,407 |
| 23.00 | | 4,199 | 11,113 | 11,705 | 13,014 | 14,865 |
| 24.00 | | 3,366 | 3,339 | 3,747 | 3,398 | 3,562 |
| 25.00 | | 3,079 | 4,951 | 5,394 | 7,618 | 8,258 |
| 26.00 | | 1,876 | 3,501 | 3,717 | 4,325 | 7,200 |
| 27.01 | | 1,044 | 7,053 | 7,527 | 7,198 | 8,823 |
| 27.02 | | 1,461 | 5,601 | 5,085 | 6,777 | 8,027 |
| 28.01 | | 2,321 | 7,464 | 7,245 | 9,339 | 10,832 |
| 28.02 | | 1,889 | 5,756 | 6,966 | 7,241 | 9,379 |
| 29.00 | Turnagain Arm | 310 | 876 | 937 | 979 | 1,445 |
| | | | 156,209 | | | |
| Anchorage Bowl | | 96,212 | 143,351 | 172,499 | 188,260 | 207,452 |
| Military | | 24,031 | 17,346 | 17,901 | 17,628 | 16,574 |
| Eagle River/Chugiak | | 5,832 | 12,858 | 14,325 | 14,977 | 21,949 |
| Municipality of Anchorage | | 126,385 | 174,431 | 187,761 | 204,216 | 230,846 |

[1] Source: U.S. Bureau of the Census
[2] Source: Municipality of Anchorage, Community Planning Department

Municipality of Anchorage
Department of Community Planning
Research Section
4/27/83

avd4/mpctl

UNITED STATES DEPARTMENT OF COMMERCE
Bureau of the Census
Washington, D.C. 20233

OFFICE OF THE DIRECTOR

Honorable Terry Martin
Alaska House of Representatives
Anchorage, Alaska 99501

Dear Mr. Martin:

This is in response to your telephone request concerning corrections to the April 1, 1980 census population counts for Anchorage, Alaska made subsequent to the release of the Public Law 94-171 data. These corrections, which changed the 1980 population count of Census Tract 0002 from 6,114 to 7,528 and the count for the city and borough of Anchorage from 173,017 to 174,431, are reflected in final 1980 census tabulations and publications.

We are enclosing excerpts from the Block Statistics report (Census Tract 0002) for the Anchorage Standard Metropolitan Statistical Area, as well as a listing of the individual blocks affected by the changes. Map sheets containing Census Tract 0002 also are enclosed.

If you need additional information, please contact Mr. Joel Miller, Population Division, Bureau of the Census, Washington, D.C. 20233, (301) 763-7955.

Sincerely,

C. L. KINCANNON
Deputy Director
Bureau of the Census

Enclosures

* Letter was sent to Lt. Gov. Miller + Karen Ward (Rehfeld) on Sept 15, 1981 Advising them of the Eagle River Census Correction. The Nov. 1981 Publication also has the Updated Figures.

Copies of Block Maps were included (on shelf)

1980 Census of Population and Housing

# Block Statistics

## ANCHORAGE, ALASKA
STANDARD METROPOLITAN STATISTICAL AREA

PHC80-1-68

# CONTENTS


| | | Page | Fiche/ Frame |
|---|---|---|---|
| List of PHC80-1 Block Statistics Reports | | IV | 1/A4 |
| **TEXT** | | | |
| Introduction | | VII | 1/A7 |
| Appendix A | Area Classifications | A–1 | 1/A10 |
| Appendix B | Definitions and Explanations of Subject Characteristics | B–1 | 1/A13 |
| Appendix C | General Enumeration and Processing Procedures | C–1 | 1/B2 |
| Appendix D | Accuracy of the Data | D–1 | 1/B3 |
| Appendix E | Facsimiles of Reference Instructions and Questionnaire Pages | E–1 | 1/B5 |
| **TABLES** | | | |
| 1. Characteristics of Population and Housing Units, for the Blocked Portion of the SMSA: 1980 | | 1 | 1/B10 |
| | The SMSA | | |
| | Boroughs | | |
| | Places | | |
| 2. Characteristics of Population and Housing Units, by Blocks: 1980 | | 2 | 1/B11 |
| | by Units Within Census Tracts or Block Numbering Areas (BNA's) | | |
| 3. Blocks With Zero Population and Zero Total Housing Units: 1980 | | 24 | 1/D5 |


**MAPS**

Printed maps identifying the geographic areas covered herein are provided in a separate package which can be ordered from the Superintendent of Documents.

An index to 1980 census maps, which includes an SMSA map index to block numbered areas and an index listing identifying each blocked geographic area and its map sheet number(s), accompanies the maps.

**INDEX**

An index to the location of data by geographic area on each fiche appears in frame G14.

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

U.S. Department of Commerce
Malcolm Baldrige, Secretary
Joseph R. Wright, Jr., Deputy Secretary
Robert G. Dederick, Assistant Secretary
for Economic Affairs

BUREAU OF THE CENSUS
Bruce Chapman, Director
Daniel B. Levine, Deputy Director

POPULATION DIVISION
Roger A. Herriot, Chief

HOUSING DIVISION
Arthur F. Young, Chief

## Acknowledgments

Many persons participated in the diverse activities of the 1980 census. Those acknowledgments generally reflect staff during the census-taking phases. The Bureau was guided by then Director, Vincent P. Barabba, and Deputy Director Daniel B. Levine. Primary direction of the census program was performed by George E. Hall, then Associate Director for Demographic Fields, assisted by Earle J. Garcia, then Assistant Director for Demographic Censuses, in conjunction with Barbara A. Bailar, Associate Director for Statistical Standards and Methodology, Howard H. Hamilton, Assistant Director for Computer Services, Sidney Kaitz, Associate Director for Economic Fields, James D. Lincoln, Associate Director for Administration, Ben L. Perlin, Associate Director for Field Operations, and W. Bruce Ramsey, Associate Director for Information Technology. The director's staff was assisted by Peter A. Bounpane and Sherry L. Courtland.

Responsibility for developing the population portion of the 1980 census questionnaire content and designing the tabulations cast in the Population Division, under the supervision of Meyer Zitter, then Chief, Paula J. Schneider, Staff Assistant for Census Programs, Roger A. Herriot, Thomas D. McKenney, and Arthur J. Norton, Assistant Chiefs.

Responsibility for developing the housing portion of the 1980 census questionnaire content, designing the tabulations, and preparing this report was in the Housing Division, under the supervision of Arthur F. Young, Chief. This report was planned and written by William A. Dennis, Chief, Decennial Planning and Data Services Branch, assisted by Carol A. Gendreau and Robert G. Kaupp.

Responsibility for the overall planning, coordinating, and processing of the 1980 census was in the Decennial Census Division under the direction of Gerald J. Perl, then Acting Chief, assisted by Maria G. Argote, Rachel P. Brown, Donald R. Dalzell, Leonard Goldberg, Earle G. Knapp, Jr., and Roger G. Lepage.

Data base and generalized system support was developed and provided by Systems Development Division, Jacky M. Shelton, Chief, under the direction of John Jerry Gott, Assistant Chief.

Computer processing was performed in the Computer Operations Division, C. Thomas Dahlman, then Chief, and John S. Matthews, Assistant Chief.

The Statistical Methods Division was mainly responsible for developing new procedures to obtain a more accurate count of the population. This work was supervised by Charles D. Jones, Chief, David W. Bateman, James M. Withers, and Robert T. O'Reagan, Assistant Chiefs.

Geographic programs and plans were developed in the Geography Division under the direction of Gerald P. Cavallaro, then Assistant Chief, Robert W. Marx and Billie G. Tarrant, Assistant Chiefs, and Donald L. Hinkebein, Special Assistant. Joseph J. Kocis coordinated geographic operational plans.

Data collection activities were supervised in the Field Division by Richard C. Hart, then Chief, under the direction of Lawrence T. Love and Stanley D. Matchett, then Assistant Chiefs, with the assistance of the division and assistant directors of the Bureau's regional offices.

The coordination and acquisition of automatic data processing equipment were the responsibility of the Automatic Data Processing Planning Staff, James R. Popal, Chief, under the direction of Richard L. Peaty, Deputy Chief.

The system design, technical specifications, construction, and installation of the FOSDIC and Automated Camera Technology System were the responsibility of Technical Services Division, Merlee Anderson, Chief, assisted by Robert Z. Joseph, Assistant Chief.

Questionnaire processing procedures were developed in the Decennial Processing Staff, James E. Worsley then Chief, under the direction of Henry F. O'Hearn, Assistant Chief. The manual processing and microfilming of the questionnaires were performed at three decennial processing locations as follows: Data Preparation Division, Dee L. Adams, Chief; Jeffersonville Processing Office, Robert L. Strickland, then Processing Manager; New Orleans Processing Office, Robert L. Allen, Chief; and Laguna Niguel Processing Office, Robert N. Schaller, Chief.

Administrative support was provided by the Administrative Services Division, G. Bryant Bristow, then Acting Chief.

Publications editing, printing, and composition were performed in the Publications Services Division, Raymond J. Keahl, Chief, under the direction of William E. Anderson, Arlene C. Dandrea, and Gerald A. Hiers.

User services were provided by the Data User Services Division under the supervision of Mildred G. Garland, Chief, and Marshall L. Turner, Assistant Chief.

Many other persons participated in the various activities of the 1980 census. For a list of key personnel, refer to the *History of the 1980 Census of Population and Housing*, PHC80-R2).

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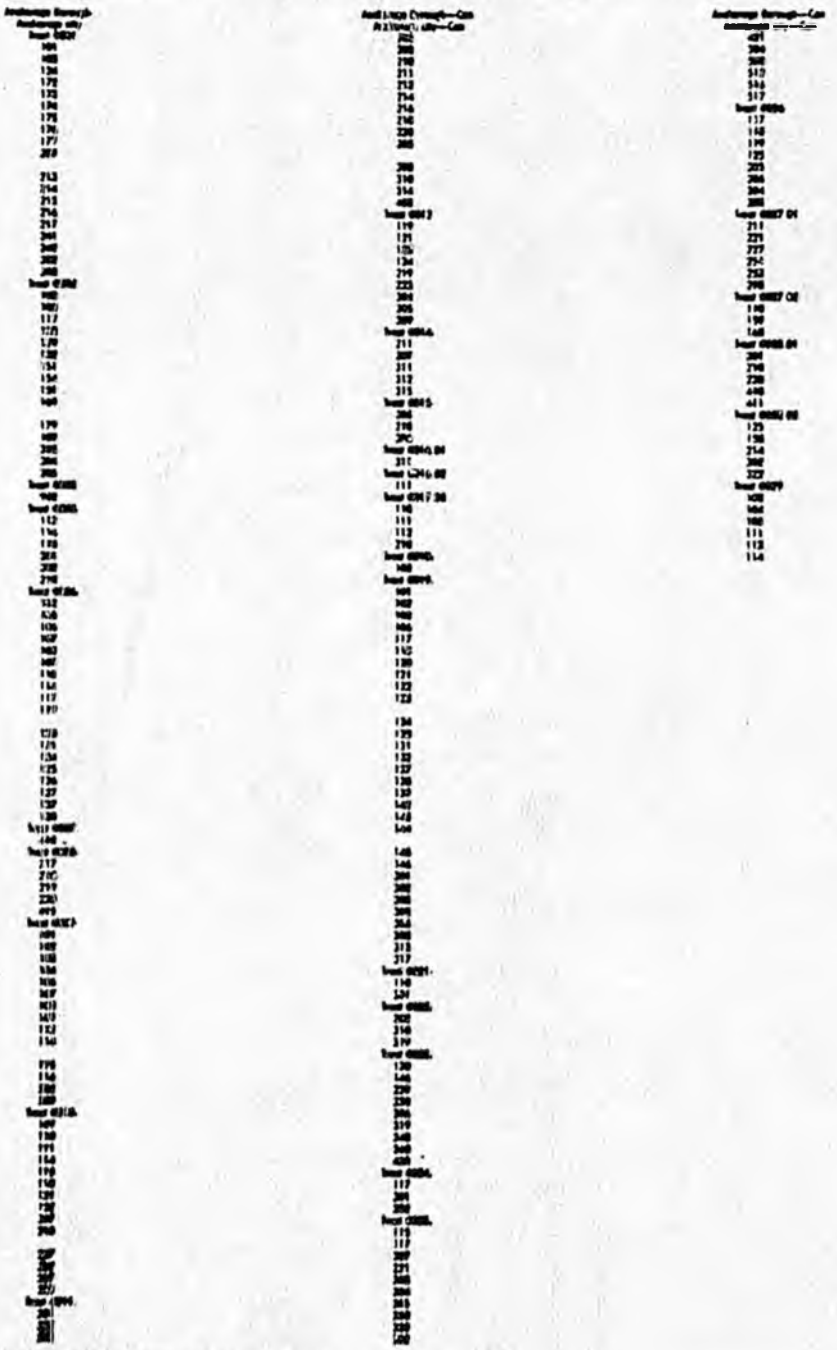
Table 2. Characteristics of Population and Housing Units, by Blocks: 1980—Con. Anchorage Borough, Alaska

Table 2. Characteristics of Population and Housing Units, by Blocks: 1980—Con.

Anchorage Borough, Alaska

Table 1. Blocks With Zero Population and/or Zero Total Housing Units: 1980

Alaska



# CONGRESSIONAL REDISTRICTING

A Public Information Monograph

AMERICAN BAR ASSOCIATION
Special Committee on Election Law and Voter Participation

**Additional Publications of ABA Special Committee on Election Law and Voter Participation**

*The Vice Presidency.* Proceedings of Symposium held December 1976, in New York City.

Order from Fordham Law Review, 140 W. 62nd Street, New York, NY 10023 ($3.50)

*Public Financing of Elections: A Constitutional Division of the Wealth,* 1975. Study by Thomas J. Schwarz for the ABA Special Committee on Election Reform.

Order from William S. Hein & Company, 1285 Main Bldg., Buffalo, NY 14209 ($9.50 plus 75¢ postage)

*Symposium on Campaign Financing Regulation.* Proceedings of Symposium held April 1975, in Tiburon, California.

Order from William S. Hein & Company, 1285 Main Bldg., Buffalo, NY 14209 ($9.50 plus 75¢ postage)

*Campaign Financing after Buckley v. Valeo.* Proceedings of Symposium held February 1976, in Washington, DC. (ABA Product No. 357(0002)

Order from American Bar Association, Order/Billing Department 357, 1155 East 60th Street, Chicago, IL 60637. ($5.00)

*The Disappearance of the American Voter.* Proceedings of Sympos[illegible]m held June 1978, in Palo Alto, California.

Order from American Bar Association, Order/Billing Department 357 1155 East 60th Street, Chicago, IL [illegible]7. ($5.00)

Council of State Go.

# CONGRESSIONAL REDISTRICTING


**ABA Special Committee on Election Law and Voter Participation**

**John D. Feerick, Chairman 1979-80**
**Steven J. Uhlfelder, Chairman 1980-81**
**Charles G. Armstrong**
**Judith Areen**
**Marvin S. Arrington**
**Joel L. Fleishman**
**Scott M. Matheson**
**Abelardo I. Perez**
**Dale W. Read, Jr.**
**Elissa C. Lichtenstein, Staff Director**



**DIVISION OF PUBLIC SERVICE ACTIVITIES**
**AMERICAN BAR ASSOCIATION**
**WASHINGTON, D.C.** **JUNE 1981**

**The views set out in this report have not been considered by the ABA's House of Delegates and do not constitute the position of the American Bar Association except where explicitly noted as such.**

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Congressional Redistricting
Washington, D.C.

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## TABLE OF CONTENTS

PREFACE

I. INTRODUCTION
How Congressional Seats are Now Allotted ..... 1
A Brief History of Redistricting ..... 1

II. THE CURRENT REDISTRICTING SYSTEM ..... 3
Gross Population Inequality: Past Injuries Healed ..... 3
Current Redistricting Problems: The Gerrymander ..... 3
Why Gerrymandering Harms ..... 5
An Overview of Reform Proposals ..... 7
Common Cause Proposal: Model for State Self-Improvement ..... 8
Federal Guidelines with Redistricting Commission Requirement ... 8
Federal Guidelines Without Commission Requirement ..... 8

III. THE ISSUES: ARE STANDARDS NEEDED? ..... 9
To What Extent Should Standards be Articulated? ..... 9
In Defense of Standards ..... 9
In Opposition to Standards - Encroachment on States' Rights .....10
Absence of Standards Throughout the Nation's History .....10
Encouragement of Litigation .....10
Standards: Conflicts or Priorities? .....10
Examination of Specific Standards .....11
Population Equality .....11
Political Subdivisions .....12
Contiguous Territory .....12
Compactness .....13
"Antigerrymandering" Standards .....13
Other Considerations: "Affirmative Gerrymandering" Practices .....15
Time Provisions .....17

IV. THE ISSUES: WHO SHOULD MAKE THE REDISTRICTING DECISIONS? .....18
Who Should be the Redistricting Rulemakers? .....18
Contentions as to Congressional Authority .....18
Contentions as to State Legislative Authority .....18
Who Should be the Initial Apportioning Authority? .....19
Accountability Provisions: Who Should Judge the Plan? .....23

V. CONCLUDING OBSERVATIONS .....24

Appendix A: Important Dates in Redistricting History .....27
Appendix B: American Bar Association Resolution on Fair Redistricting ..30
Appendix C: ABA Special Committee Report on Redistricting .....32
Appendix D: Further Reference .....36

# PREFACE

The American Bar Association Special Committee on Election Law and Voter Participation is now entering its second decade of service as one of the Association's major public service undertakings. Its work has been marked by a dual tradition of policy leadership and guidance to the ABA and of education for the bar and public on contemporary issues in election system improvement. The former is reflected in a number of formal ABA policy positions (popular election of the president, vice-presidential selection, voter registration by mail, amendment of the Federal Communications Act's "equal time" provisions, campaign financing reform, an independent federal election commission, and a presidential study commission on declining voter participation) by which the bar has contributed to the national dialogue and endorsed specific proposals for election law reform. The latter has borne fruit in a variety of conferences, symposia, and publications on current electoral system problems.

This monograph is a new addition to our public education tradition. It explores the important issues of congressional reapportionment theory and practice which still face the nation notwithstanding the "one person, one vote" giant step of the early 1960s. The message is particularly timely with our federal system on the brink of the major redistricting initiative that comes with each decennial census, and will be an important determinant of the fairness and equity accorded in the decade ahead of all citizens and all segments of society in their representation within the Congress of the United States.

The monograph was designed with a non-technical approach in mind. Despite its character as a "primer," informational appendices and literature references will be found to direct readers to relevant case and statutory law, analytical studies, and historic evolution and thereby permit more intensive study of the problem.

Fair redistricting is not just a priority of our Special Committee. It is a commitment of the entire American Bar Association. In 1979, the Association's governing body, its House of Delegates, in considering a variety of voter participation initiatives, formally supported the enactment of legislation that "provides for fair redistricting pursuant to the 1980 census without regard to partisan advantage." While no specific method of reapportionment was endorsed at the time, the concept itself was engraved in formal Association policy. Specific measures were weighed and explored at a conference cosponsored by the Committee in June 1980 with the National Science Foundation and a distinguished group of academics and practitioners at San Diego, California.*

*See conference volume, *Representation and Redistricting in the 1980s*, Grofman, Lijphart, McKay, Scarrow, eds. (1981, forthcoming)

The Committee would, therefore, welcome views, reactions, and suggestions from all readers of this handbook, whether or not Association members, on how best to ensure implementation of the "fair redistricting" concept. If the pamphlet stimulates and informs this kind of dialogue—in bar, civic, and other forums of concerned citizen activity—it will have well served its purpose and the cause of good government.

Washington, D.C.
June 1981

John D. Feerick
Steven J. Uhlfelder

Charles G. Armstrong
Judith Arees
Marvin S. Arrington
Joel L. Fleishman
Scott M. Matheson
Abelardo I. Perez
Dale W. Read, Jr.

# I. Introduction

Fair and equal representation, a cornerstone of the American political system, depends largely on the fairness of the process for selecting representatives. One of the most important factors in this process is the drawing of congressional districts from which members of the United States House of Representatives are chosen.* State legislatures traditionally have been responsible for establishing district lines.

Alterations in congressional district lines after the 1980 census promise to be extensive. According to its 1980 figures, the Census Bureau estimates that population movement among states will cause about 14 states to gain or lose seats in the House of Representatives. This shift, combined with population movement within states, may force virtually all of the 435 existing district lines to be redrawn. Even though redistricting inequities have been reduced in the past two decades, under the 'one person, one vote' mandate, many citizens are dissatisfied with current methods of reapportionment.

## How Congressional Seats are Now Allocated

No matter how small its population, each state must have at least one representative in the House of Representatives. The remaining 385 seats are to be allotted so that each representative speaks for approximately the same number of people, thus attempting to provide each person with an equal share of representation in the nation's lawmaking processes.**

The population figures used are those provided by the decennial U.S. census. The President transmits these figures to Congress during the first week of the first regular congressional session after the census. Within fifteen days after receiving these figures, the Clerk of the House sends the chief executive of each state a certification of the number of representatives to which the state is entitled. Each state, according to rules in its state constitution or statutes, then creates the same number of districts as the number of representatives to which it is entitled. While states are required to redistrict every ten years, no formal time limit exists for the completion of the redistricting plan.

## A Brief History of Redistricting***

While state legislatures traditionally have been the main bodies responsible for redistricting, the Congress and the courts have played varying roles in the line-

---

* The drawing of *legislative* districts (those from which representatives to a State House or Senate are chosen) is also central to fair representation, yet entails certain issues separate from those involved in congressional redistricting. For a more detailed discussion of legislative redistricting, see *Toward a System of Fair and Effective Representation*, Common Cause (Washington, D.C., 1977). Unless otherwise indicated, "redistricting" will refer only to congressional linedrawing.

** U.S. Constitution, Article I, Section 2, clause 3; 2 U.S.C. § 2a.

*** "Reapportionment" refers specifically to distributing seats in established units of government, while "redistricting" signifies line-drawing to establish districts within these units. States receive an apportionment of congressional seats, after which districts are drawn. Both terms will be used interchangeably throughout this monograph to discuss how congressional seats are distributed within each state.

drawing process. Congress was silent on the issue before 1841. However, since that time, it has enacted several pieces of legislation to alter the congressional reapportionment system, with congressional involvement peaking in the early twentieth century. The current congressional redistricting law was passed in 1929. It contains very few directives but does mandate that representatives be apportioned every ten years according to the then most recent U.S. decennial census, based on the principle of equal representation (see Appendix A). Except for an act passed in 1976 which banned at-large elections *(i.e.,* those where the entire state votes for all seats to which the state is entitled), Congress has not recently imposed any redistricting rules on the state legislatures.*

Until 1962, in the landmark case of *Baker v. Carr,* 369 U.S. 186, the courts trailed far behind state legislatures and Congress in their involvement with reapportionment.** Indeed, in the 1946 case, *Colegrove v. Green,* 328 U.S. 549, the Supreme Court asserted that it had neither a judicial responsibility nor a right to address the redistricting question, on the grounds that it was a political issue. *Baker v. Carr,* however, offered a dramatic departure from the previous stance of judicial "laissez-faire," in ruling that federal courts do have authority to judge whether districts are apportioned fairly. Some controversy, however, still exists concerning the appropriate roles of Congress and the courts in this area.

*2 U.S.C. § 2c.

**See Appendix A for summaries of major cases affecting redistricting.



## II. The Current Redistricting System

### Gross Population Inequality: Past Injuries Healed

Despite the requirement that congressional districts be redrawn every ten years so that each district has approximately the same population size, many states have had congressional districts whose populations varied dramatically. A study by the Brookings Institution revealed that in 1962 half of the states with more than one congressional district (21 states out of 42) had constituencies in which the smallest district contained less than fifty per cent of the population of the largest district.*

In the 1964 case of *Wesberry v. Sanders,* 376 U.S. 1, the Supreme Court condemned this gross inequity. It voided Georgia's redistricting plan, deciding that the population disparities among congressional districts violated the spirit of Article I, Section 2 of the Constitution. Articulating what is frequently referred to as the "one person, one vote" or "as nearly as practicable" standard, the Court wrote that "as nearly as practicable, one [person's] vote in a congressional election is to be worth as much as another's." Following the 1970 redistricting, most districts adjusted to this mandate: 402 of the 435 congressional districts were within 1 per cent of the district population average for their state.

### Current Redistricting Problems: The Gerrymander

Even though major inequities in the area of population disparity have been greatly reduced, redistricting reformers contend that substantial and avoidable injustices remain. These defects result largely from the practice of "gerrymandering."

*What is "Gerrymandering?"* In 1812, the Massachusetts state legislature created a dragonlike district to benefit the Democratic party over which then Governor Elbridge Gerry had tremendous influence (see *Figure 1*). Drawing a head, claws and wings on a picture of the district, painter Gilbert Stuart exclaimed that it looked like a salamander. Editor Benjamin Russell, however, noted that "gerrymander" would be a more appropriate name, in "honor" of the governor. Since then, the term has generally referred to the drawing of district boundary lines for the purpose of giving some individual or group a political advantage. It is important to note that gerrymandering is detectable in terms of its *impact,* not necessarily by the *shape* of the district.**

Gerrymandering typically involves the use of one of two techniques to dilute the influence of "minorities" in the electoral process.*** It may concentrate minority

*A. Hacker, *Congressional Districting: The Issue of Equal Representation,* (Brookings Institution: Washington, D.C. 1964).

**A strangely shaped district may, for example, merely be following natural topographical features. *See* B. Grofman and H. Scarrow, "Representation and Redistricting in the 1980s", *Policy Studies Journal* (1983, forthcoming).

***In this discussion, "minority" refers generally to any group whose influence the line-drawers are attempting to reduce. Thus, it can include racial and ethnic minorities, challengers, members of minority factions within the party that is in control of the state legislature, and minority parties.

*Figure 1*
*The Original Gerrymander*




Reprinted from *Congressional Districts in the 1970s* (2nd Ed.) with permission of *Congressional Quarterly*.

strength in a few districts, thus wasting minority votes. To illustrate, a state with ten districts and a minority comprising 30 per cent of the state's population distributed as shown in *Figure 2* could draw district lines in at least two ways. One of these would be less beneficial for minorities. For example, instead of the minority comprising 75 per cent of the constituency in four districts (as in *Figure 3*), gerrymandered districts might be drawn so that minorities would constitute 100 per cent of the population in three districts (as in *Figure 4*), thus reducing the changes of a minority candidate being elected in other districts. It should be noted, however, that the courts have rarely concluded that this minority-concentrating technique violates minorities' constitutional rights.

*Figure 2*



*Figure 3*



*Figure 4*



Note: ▨ denotes minority

A second technique is the conscious dilution of minority strength. By this strategy, a minority group that is concentrated in one geographic area (and which thus would comprise a majority if that area were a congressional district) would be split among many districts, losing a majority voice in any.



*Why Gerrymandering Harms.* Many individuals denounce any type of gerrymandering. Indeed, a former director of the National Municipal League's legislative redistricting information service contends that the evils which are meant to be alleviated by requiring population equality are simply accomplished through gerrymandering:

> It was inevitable that this gerrymandering problem would become worse, not better, as a direct result of the Supreme Court's rulings regarding population equity during the '60s and '70s. The incentive for resort to the gerrymander is much less when the legislature could easily accomplish the same thing by simply making districts of wildly different populations.*

In addition to general condemnation, however, the following specific charges have been leveled at gerrymandering practices:

*It reduces the opportunity for ethnic minorities to be elected:* the previously described techniques have often contributed to minority underrepresentation in Congress. While blacks comprise approximately 11 per cent of the nation's population, less than 3 per cent of congressional representatives were black at the beginning of the 1980s. Hispanics constitute approximately 9 per cent of the population, but make up only 1 per cent of the House of Representatives.

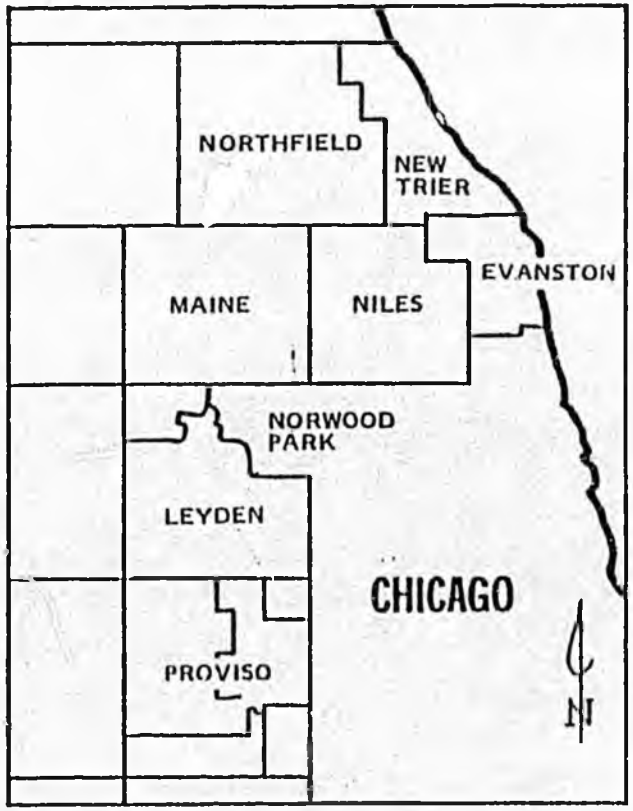
*It reduces the opportunity for political minorities to be elected:* members of parties not controlling the state legislatures, or members of the majority party who break with prevailing party views, also have fallen victim to the gerrymandering sword. Florida's 1972 reapportionment plan, for example, resulted in Democrats winning 75 per cent of the 15 congressional seats, while receiving only 53 per cent of the statewide vote.** And at least two recent political mavericks have been the target of their own party's gerrymandering initiatives. In 1975, Chicago's Democratic boss, the late Mayor Richard Daley, proposed an odd-shaped district plan, remarkably similar to the original Massachusetts gerrymander, which was narrowly rejected by the Democratic-controlled state legislature, and which many observers felt was designed to weaken an outspoken Daley opponent (Democrat Abner Mikva) who went on to win the contested congressional seat (see *Figure 5*). The 1972 California reapportionment apparently was designed, among other reasons, to protect incumbents of both parties. Yet, it was not designed to benefit a minority among incumbents, a liberal, anti-war Republican (Paul McCloskey) who nevertheless was reelected.

*It unduly protects incumbent seats:* this reduces competition and enables parties to field weak candidates. If potential candidates perceive that incumbents are drawing district lines to ensure their own reelection, challengers may be less likely to enter the race. In 1978, 11 per cent of the winners in congressional races ran unopposed. Moreover, even new-

*Congressional Anti-Gerrymandering Act of 1979,* Hearings on S.596 Before the Senate Committee on Governmental Affairs, 96th Congress, 1st Sess. 286 (1979) (statement of William Boyd) (hereinafter cited as 1979 Hearings).

**1979 Hearings at 50 (statement of David Cohen, President, Common Cause).

*Figure 5*
*Reapportionment Plan*
*(Illinois Tenth Congressional District)*




comers who enter may confront additional barriers where lines have been consciously rearranged in an incumbent-protecting fashion. Plans designed to protect incumbent seats usually achieve their goals. In 1978, over 95 per cent of congressional incumbents seeking reelection were reelected.*

*It discourages voter participation:* redistricting reformers argue that gerrymandering disenfranchises voters not only directly, by discouraging challengers from entering congressional races, but also indirectly, by discouraging other campaign involvement. For example, odd-shaped districts covering broad geographical areas increase the difficulty for both candidates and canvassers of undertaking neighborhood and door-to-door campaigning. Perhaps more importantly, gerrymandering may be contributing to the unfortunate decline in voter

*This is not to imply that preservation of existing district lines is necessarily undesirable or harmful. From the *incumbent* legislator's perspective, a familiar constituency may be valuable if he or she is to represent constituents' views accurately.



participation.* While voter turnout in House of Representatives races was about 44% in 1970, it fell to approximately 35% in 1978. Voters may reason that since gerrymandering has predetermined election results, their individual ballots hardly count. Furthermore, voters may become confused when they reside in a "strategic location" which is relocated for each major election, depending on the line-drawer's goals. A former Congressman from New York complained:

> I was redistricted in the sort of ongoing flow that occurred sufficiently often that I found that I ran for Congress three times from the same house but each time I was in a different congressional district. And the third time it was impossible for me to get from my house to the rest of my district without paying a toll.**

In addition, once candidates are elected, they might show more responsiveness to the needs of the line-drawers who created districts favoring their candidacies than to those of the citizens who elected them.

## An Overview of Reform Proposals

While there exist defenders of the current system,*** advocates for improving reapportionment cite the significant injustices just discussed and demand a more equitable system. The call for reform is bipartisan and nationwide.

Various groups and opinion-leaders in the nation are demanding that the redistricting system be improved. The *Washington Post*, the *Wall Street Journal*, and the *Boston Globe* all have run strong editorial messages stressing the need for change in reapportionment procedures. Some states have adopted modifications on their own in recent years. California, Colorado, Hawaii, Iowa, and Oregon have adopted strict redistricting standards, and Colorado, Hawaii and Montana have established redistricting commissions. Organizations expressing support for redistricting reform include the American Bar Association, the National Association for the Advancement of Colored People (NAACP), the Mexican American Legal Defense and Educational Fund (MALDEF), and the National Municipal League. The League of Women Voters has mounted a public education campaign on reapportionment issues and options and has left its individual state leagues free to consider and support corrective options that best meet local needs. An estimated ten to fifteen state leagues have endorsed reapportionment commissions. A Common Cause questionnaire sent to congressional candidates in the 1978 elections showed that 271 representatives favored federal redistricting standards, with only 41 opposed.

*See ABA Special Committee on Election Reform, *The Disappearance of the American Voter* (Washington, D.C., 1979).

**1979 Hearings at 312 (statement of the late Allard Lowenstein, Representative from New York's 5th Congressional District, 1968-70).

***E.g., the National Conference of State Legislatures, (NCSL) a national organization of approximately 7000 state legislators and their staffs.

Examples of the major national initiatives are:

*The Common Cause Proposal—A Model for State Self-Improvement.* This public interest group, a grass-roots "good government" organization with more than 225,000 individual members and offices in over 45 states, has developed a model amendment to state constitutions with an accompanying act which states can choose to adopt. The two enactments (constitutional amendment and statute) apply to both legislative and congressional districts and are designed to balance stability with flexibility. The Common Cause plan proposes among other things:

- a commission to draw district lines. Commissioners (five in number) must meet certain qualifications for "impartiality;" Four are appointed by specific members of the state legislature, and the four select a fifth to serve as Chair;
- redistricting standards. These are rules which the initial apportioning authority must follow in its plans. It is suggested that districts embrace approximately the same size population, respect political subdivisions, be composed of contiguous territory, be compact, be drawn so as to avoid giving any group or individual political advantage, and be drawn so as to avoid diluting minority voting strength;*
- accountability provisions. In addition to requiring public hearings on redistricting proposals, the plan provides the opportunity for qualified voters to challenge the plans, and for federal courts to adjudicate these claims.

*Federal Guidelines with Redistricting Commission Requirement.* Senate Bill 596 and its House companion H.R. 2653 (96th Congress, 1st Session) embody this approach. Although the bills differ slightly from each other, both support the tripartite Common Cause approach: commission-standards-accountability. The primary difference lies in the Common Cause models' presumption of state action which gives the individual states a choice on implementation, unlike the congressional bills, which, once enacted, require states to adhere to their provisions. On the other hand, because the Common Cause Act is meant to be a state statute, it contains many specific provisions which the congressional options omit. The congressional bills afford states the opportunity to decide individually on a number of "specifics" in the way in which they will adhere to the more general federal mandates.

*Federal Guidelines without Commission Requirement.* H.R. 1516 and its companion in the Senate, Amendment 237 (96th Congress, 1st Session) offer another reform approach. Although the two bills vary slightly, both are based on suggestions from the House Wednesday Group.** The major differences between these bills and the previously mentioned congressional proposals is that H.R. 1516 and S. Amendment 237 do not recommend the establishment of commissions, as the sponsors feel that the choice of approach in ensuring equitable application of federal standards should be left to the states.

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Rather than address the totality of strengths and weaknesses of each major proposal, it may be more valuable to review individually major components or concepts. As might be expected, many proposals share some provisions and differ on others. The following discussion, therefore, takes up the key remedial options and touches on the significant arguments from various perspectives in an attempt both to foster a better understanding of the issues and to facilitate informed decisionmaking. The discussion treats two major issues: who should make the decisions, and what role might standards play in this process. Our intent is to illuminate rather than to advocate particular stances on specific provisions.

*For further discussion of standards, see Part III.

**Comprised of thirty-two moderate to liberal Republican members of the U.S. House of Representatives.



## III. The Issues: Are Standards Needed?

In examining the redistricting process, several basic issues must be addressed. One fundamental set of questions revolves around the need for and character of standards to guide and order the development of reapportionment plans.

### To What Extent Should Standards be Articulated?

Some groups claim that the most important aspect of redistricting reform is the establishment of specific rules which must be followed when drawing congressional district boundaries. Indeed, if fair redistricting standards are made so explicit that line-drawers cannot abuse their discretion in interpreting them, the matter of who has the responsibility for applying the standards may well become less important. Yet, even those endorsing clear standards may disagree about the extent to which certain standards should be defined by the law. The narrower the definition, the less flexibility is available to accommodate factors affecting the fairness and soundness of plans which are not yet in existence when the definition is formulated. Moreover, as might be expected, some electoral experts are opposed to explicit standards, particularly federal ones.

*In Defense of Standards.* A 1979 editorial in the *Washington Post* stressing the need for standards (particularly to provide courts with reviewing guidelines) emphasized one of the common rationales for this approach: "Since the federal courts are already deeply into this 'political thicket,' [of judging the fairness of redistricting plans] it might be useful to them—as well as to the cause of ending the more indefensible forms of the gerrymander—for Congress to spell out how it believes congressional district lines should be drawn."* Indeed, many have viewed standards as perhaps the most important agenda items in the fair redistricting "portfolio." As a former AFL-CIO advisor on reapportionment matters and the plaintiff in *Wells v. Rockefeller* has stated:

> The most effective way to prevent gerrymandering is not to . . . vest special power in some judicial umpire or even in a nonpartisan authority. Rather it is to make sure that whoever draws the district lines cannot do so in a manner calculated to bestow special advantages on any . . . group . . . And the best way to do this is to establish firm, explicit . . . ground rules.**

*Washington Post, June 21, 1979.

**Wells, *'Affirmative Gerrymandering' Compounds Districting Problems,* National Civic Review (January 1978) at 17.

Equity, uniformity, visibility and accountability—at first blush, all appear to make the case for articulate standards. Few seem to quarrel with the idea, at least in principle. Yet, there is a significant measure of opposition.

*In Opposition to Standards—Encroachment on States' Rights.* The National Conference of State Legislatures has expressed concern that if Congress mandates that commissions draw plans according to specific federal standards, the state legislatures will be accorded little voice in the redistricting process. The standard response to this objection is that state legislatures would retain a significant influence in appointing commission members. Of course, this influence would be limited by reform proposal restrictions on who could be appointed.

*Absence of Standards throughout the Nation's History.* It is true that federal redistricting standards have not been employed throughout most of U.S. history and that many states have set no standards for either legislative or congressional redistricting. Standards supporters, however, assert that (i) perhaps the federal standards which were renewed and embellished from 1842 to 1911 ultimately expired simply because they were not judicially enforced, and not because they were unnecessary or because Congress did not have the authority to impose them, and (ii) states are now increasingly adopting standards. These observations cast doubt on the argument that the relative absence of standards in the past implies that they are unnecessary to fair and effective operation of our redistricting apparatus.

*Effect on Volume of Litigation.* Some have expressed wariness of standards without commissions, suggesting that such a combination may "open the floodgates to litigation" and entail lengthy bureaucratic red tape. An underlying premise is that many plans will be unable to satisfy fully the variety of standards being proposed, and dissatisfied parties may be encouraged to find some inconsistency worthy of court contest. Yet others have speculated that the articulation of standards could reduce frivolous litigation, since challengers would use standards as guidelines to determine the types of deficiencies the courts will recognize and would assess their prospects with greater care.

*Standards: Conflicts or Priorities.* Focusing on the dilemmas of definition and differing social and political values that underlie many of the standards proposals, some authorities suggest that the task of reconciling and ordering meaningful standards may be unmanageable. For example, drawing districts with the same size population in order to fulfill the "population equality" standard may require odd-shaped districts which fail to meet the frequently asserted "compactness" requirement. NCSL has complained, in this vein, that many congressional bills "impose a litany of substantive and inconsistent standards to govern redistricting plans."*

Proponents of standards generally respond to such assertions not by disagreeing that standards may conflict, but by arranging them according to priorities which can operate to mitigate the problem: the less important standards need only be met to the extent that the plan they affect is also faithful to the more important standards. Indeed, several experts suggest that priorities should be made explicit in any reform proposals which espouse redistricting standards. The Supreme Court seemed to advocate this priority approach at least with respect to legislative districts, in *Reynolds v. Sims,* 377 U.S. 533 (1964) where the Court wrote that although the state must attempt to construct districts in both houses of its state legislature as nearly equal in population as practicable, some population deviations were permissible if "based on legitimate considerations incident to the effectuation of rational state policy" such as a desire to respect political boundaries. It should be noted that placing standards in order of importance does not eliminate all difficulties. Additional questions which need to be answered include what the precise order should be among any given set of standards, whether there should be a range within which some standards can be modified to accommodate others and, if so, what these ranges might be.

*1979 Hearings at 400 (statement on behalf of NCSL of State Senators S.H. Runyan, Arizona, Ross Doyen, Kansas, and Charles Vickery, North Carolina).



### Examination of Specific Standards

Against this backdrop, it is appropriate now to examine individual standards which have been proposed, where on the priority scale each might be placed, how clearly these can and should be defined in law, and how much a given standard should be modified to accommodate other standards.

*Population Equality.* Past congressional statutes, Supreme Court decisions, and virtually all major reform proposals agree that congressional districts should strive for equal population size. According to the Congressional Quarterly, 385 of the existing 435 congressional districts are within 1 per cent of the average district population within their states, thus confirming the efforts of states to adhere to this requirement.* Nevertheless, many issues with regard to this standard remain unresolved and a good number turn on definitions of "population equality." Most definitions set forth a percentage of population deviation allowable from a state's average population in a congressional district. Various advantages and disadvantages are claimed for this approach. The "deviation range" concept is meant to eradicate gross population since any deviation outside the stipulated range would be impermissible. This approach seems to offer a better solution than precise mathematical equality since it allows other relevant considerations to be taken into account in a way that mathematical equality may not. Thus, districts would be presumed to be within constitutional tolerances if the maximum deviation were within the permitted range. Yet this presumption might be overcome by showing that a given plan, nevertheless, "operated unreasonably to minimize the voting population," see *Kirkpatrick v. Preisler,* 394 U.S. 526, at 531 (1969).

Among those standards defining "population equality" according to range, there exist alternatives concerning the amount of deviation allowed. One 1979 Senate proposal, for example, (S. 596**) allows the largest district to be 4 per cent greater than the smaller district (*i.e.* permits deviations from the average district of up to 2 per cent). Advocates defending the broader ranges assert that they provide a greater opportunity to accommodate other relevant standards and, that in any event, small ranges may require census figures to be more accurate than is now the case. Indeed, the Census Bureau admits to a margin of error of

*Congressional Quarterly, "Congressional Districts in the 1970s" (2d ed. 1974) at *.
**96th Congress, 1st Session.

approximately 2 per cent in its estimates, and a census authority testified in mid-1979 before a House subcommittee that many state representatives had encountered problems using census figures to draw redistricting lines.*

Thus, although debate continues concerning the precise definition of "population equality," there seems to be a consensus that some standard of this kind is a necessary (albeit not alone sufficient) requirement for fair redistricting. It appears that a range of standards would pass constitutional muster although Supreme Court decisions are not fully clear on the extent to which states must at least strive for strict mathematical equality.

*Political Subdivisions.* Over 200 counties are split up among congressional districts more than is required by their state's population average. Many of those concerned with improving the redistricting process feel that the boundaries of political subdivisions (counties, municipalities, and other units of local government) should be respected in the line-drawing processes, although not all of them agree on whether the term "political subdivision" should be defined in the federal law or left up to the states to define. They propose that political subdivisions remain undivided whenever possible not only because unnecessary fragmentation undermines the ability of constituencies to organize effectively, but also because it increases the likelihood of voter confusion regarding other elections based on political subdivision geographies. Furthermore, preserving political subdivisions tends to foster a sense of community.

Still not settled, however, is the priority this standard should be assigned. While it is generally agreed that boundaries should only be respected to the extent that they are consistent with the "equal population" standard, the issue becomes more controversial when this standard conflicts with the "compactness" standard which discourages odd-shaped districts. Many political subdivisions are odd-shaped; if the compactness standard is given a high priority, the political subdivisions should only be respected when both "population equality" and the "compactness" requirement are fulfilled. Most groups place preservation of political subdivisions second only in importance to "population equality."

Other criticisms of the high priority accorded preservation of political subdivisions boundaries cut more deeply than those just mentioned. It is charged that honoring subdivisions preserves the "status quo," a change in which may sometimes be needed in order to eliminate undue incumbent power in fair districting situations. Representatives from MALDEF, for example, have expressed concern that this standard may jeopardize minority voters: "[T]he standard which requires maintaining the boundaries of political subdivisions is unwarranted. In order to maximize the voting strength and enhance the opportunity for minorities to be elected, it is often necessary to split cities or counties which have large concentrations of minority citizens."**

*Contiguous Territory.* Rarely has it been suggested that congressional districts not be composed of contiguous territory. Generally, a district is considered contiguous if none of the territory included within it is entirely separated from the remainder of the district by intervening territory assigned to another district. Indeed, even though not required by the Constitution or by federal law, contiguity is almost always observed in congressional districts.* Perhaps this practice is common because, like compactness, it seems inherent to the system of representation upon which the U.S. House of Representatives system is based. Although there has been questioning of the incorporation of contiguity into federal legislative standards because of difficulty of definition, the almost self-evident character of the concept suggests that a detailed definition may not be needed.

There are, nevertheless, problematic situations for assessing contiguity. For example, the question might be raised whether districts are necessarily contiguous if they are comprised of territories joining only at one point or connected only by bridges or tunnels, or separated by unconnected waterways. Some plans, therefore, propose "convenient contiguous" territory, a concept that is designed to permit searching scrutiny of these marginal situations and to afford some recognition to travel and communication barriers.

*Compactness.* The "compactness" requirement is designed to prevent gerrymandering districts into odd shapes. One measure of compactness is to determine the smallest circle in which the district can be circumscribed and to compare the ratio of the area of the district inside the circle to the area of the circle itself, with the closer to 1-1 the better. Like contiguity, compactness is required neither by the Constitution nor by federal law, but scholars and politicians alike have acknowledged its value and many states have established compactness provisions.

Defenders of the compactness requirement maintain that it is central to the theory of geographical representation upon which U.S. House of Representatives selection is based. Geographically compact districts also tend to reduce electoral costs in time and money, since candidates and campaign workers can more readily cover smaller districts. Nevertheless, a compactness standard which would be logical for one district might be quite inapplicable to another. Thus, general language requiring the aggregate lengths of district boundaries in the state to be as short as possible might be more appropriate in federal standards than more detailed or narrow definitions. States, however, could choose to define the term more narrowly in their own constitutions or codes. This level of generality is seen as preventing the arbitrary shifting of lines for political advantage while permitting minor departures from compactness to accommodate important companion standards. Virtually all proposals suggesting this standard place it below the three previously mentioned in terms of priority.

*"Antigerrymandering" Standards.* Some endorsers of standards believe that even if the previously mentioned requirements are carefully articulated and enforced, there should also be explicit "antigerrymandering" standards. These generally prohibit the drawing of lines for the purpose of gaining political advantage, and currently exist under the laws of Colorado, Delaware, Hawaii, and Oregon. Such requirements serve as an added safeguard against line-drawers who, while devising a means of fulfilling the previous requirements, still intentionally manage to structure district lines which establish an undue political advantage.**

*Remarks by Marshall L. Turner, Jr., U.S. Bureau of the Census, testifying before the House Subcommittee on Census and Population, May 4, 1979.

**Letter dated September 27, 1972, Abelardo Perez, then Associate Counsel for MALDEF, to Senator Danforth (R-Illinois) sponsor of S. 596.

*In fact, a federal court, in *Kopald v. Carr*, 343 F. Supp. 51 (M.D. Tenn. 1972) imposed a requirement of contiguity where that requirement was not mandated by state statutes. In addition, redistricting expert Bruce Adams has noted that, ". . . two state statutes and twenty seven constitutions require contiguity." ("A Model Reapportionment Process: The Continuing Quest for 'Fair and Effective Representation'," 14 *Harvard J. on Legislation*, June 1977 at 874).

**See Backstrom, Robins and Eller, "Issues in Gerrymandering: An Exploratory Measure of Partisan Gerrymandering Applied to Minnesota," 62 *Minn. L. Rev.* No. 6, July 1978, which points out that

The "political advantage" type of standard has encountered some opposition. It is seen by some as an attempt to make the line-drawing process politically neutral, an impossibility since every district line favors some political party, person or group. Proponents respond, however, that the standard is not meant to void a plan merely because it favors some group or individual. The Common Cause model, for example, does not void a plan merely because it *results* in favoritism. Rather, it requires that challengers demonstrate that districts were drawn for the *purpose* of favoring some person or group.*

In addition, problems may arise under an antigerrymandering standard with regard to determining which entities should explicitly be prohibited from gaining political advantage. Among those suggested by various proposals are: political parties, incumbents, economic groups, certain racial minorities, certain language groups, and specific individuals. While it seems laudable to attempt to eliminate the possibility of any entity gaining political advantage, an effective standard may be so difficult to articulate that the resulting attempt could create more problems than it would solve. Indeed, Common Cause redistricting expert Bruce Adams has advanced this criticism with respect to the protection of certain socio-economic communities (as has been attempted in Alaska, Colorado, Hawaii, and Oklahoma). In a 1977 article, he wrote:

> The notion of "socio-economic communities of interest" is so broad that a reapportionment authority could knowingly demark geographically overlapping communities. As a result, the reapportionment authority would have to favor some communities of interest over others. It is possible, therefore, that under the broad provisions those communities of interest that have been the traditional victims of discrimination will gain no additional protection.**

Another frequent criticism of the antigerrymandering standard is that it weakens the theory of geographical representation. If a "fair system" is defined as one which guarantees that groups receiving a certain percentage of the total vote are awarded a similar percentage of seats in Congress, the United States would have to adopt a mechanism for proportional rather than geographical representation.*** Many political scientists assert that the U.S. electoral system could not readily make this change because it would entail political conditions (*e.g.*, the growth of a multi-party system) which are foreign to the nation's political system and traditions. Yet, it is possible to focus only on geographic information in the *initial* formulation of redistricting plans and then to apply a "political influence" concept in checking a plan to ensure that it does not unduly benefit some specific group or individual. An antigerrymandering standard might decree that such a check is desirable although the type of data to be used in making this test and its manner of application would have to be carefully worked out.

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one can measure the extent of gerrymandering by looking at any proposed districting in terms of statistical calculations on how likely the expected seats-votes relationship it would give rise to could have occurred by chance.

*Common Cause, "Toward a System of 'Fair and Effective Representation'," (Washington, D.C., 1977) at 55.

**Adams, "A Model Reapportionment Process" *supra*, at 879.

***See Backstrom, "Issues in Gerrymandering," *supra*. As measured in Backstrom's terms, fair representation is *not* proportional representation.



Some groups oppose any express prohibition of political gerrymandering, arguing that the Supreme Court has never found it unconstitutional to take certain considerations into account when drawing initial redistricting plans.* However, advocates of this standard, in addition to questioning the validity of case precedent here, suggest that it is precisely for the reason that constitutional strictures may permit some accommodation of political considerations that federal standards must be articulated in this area in order to prevent abuse.

### Other Considerations: "Affirmative Gerrymandering" Practices

Most authorities and organizations advocating antigerrymandering standards disapprove of the use of statistics about a district's racial or linguistic composition to dilute the voting strength of certain racial or language minorities. Indeed, both Supreme Court decisions (*e.g. Gomillion v. Lightfoot*) and federal legislation (the Voting Rights Act of 1965) prohibit such practices.**

A more controversial question, however, is whether such information should be taken into account to afford minorities an advantage so as to compensate for past redistricting injustices (hence the name "affirmative gerrymandering"). In this vein, an expert on the effect of redistricting on black voters has suggested the following language for inclusion in redistricting proposals:

> There shall be an affirmative duty on the part of the [initial reapportionment authority] to insure that there is no discrimination on the basis of race or color in the drawing of congressional district lines.***

This approach seems to be supported by Supreme Court pronouncements [*United Jewish Organizations v. Carey*, 430 U.S. 144, (1977)]; the NAACP has also gone on record in support of "affirmative gerrymandering":

> Whereas, courts, including the Supreme Court, have recognized that it is sometimes necessary to take race into consideration in the shaping of voting districts to correct violations of the Constitution and of the Voting Rights Act; . . .[T]he NAACP opposes any law that would restrict legislatures or other entities in their efforts to correct the underrepresentation of blacks in Congress.****

Some minority interests (*e.g.* MALDEF) suggest that a diluting effect in a redistricting proposal (with or without proven intent) should be sufficient proof of discrimination to invalidate it or, at least, to create a presumption of defectiveness in any state and not merely in those jurisdictions with a history of discrimination. The rationale, drawing on experience with respect to efforts to establish discriminatory intent in matters of minority employment and education, is that proving such intent is difficult if not impossible.

In *City of Mobile v. Bolden* the U.S. Supreme Court dealt with the intent issue in the context of a redistricting challenge based on Section 2 of the Voting Rights

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*NCSL; *See Gaffney v. Cummings*, 412 U.S. 735 (1973) and *White v. Regester*, 412 U.S. 755 (1973) in support of Supreme Court neutrality in this area.

**42 U.S.C. §§ 1971, 1973 *et seq.*

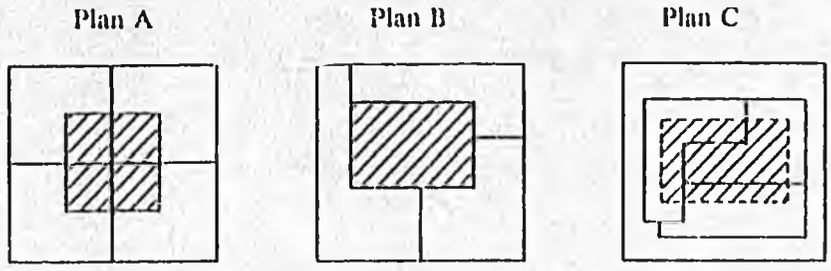
***1979 Hearings at 342 (statement of George Bundy Smith).

****Althea Simmons, Director, Washington bureau, NAACP, quoting statement of the Association enunciated during NAACP's 70th annual convention.

Act.* Mobile's at-large system of elections was alleged to cause discrimination against minority groups. The Supreme Court ruled against plaintiffs, finding that the intent to discriminate had not been proved as required in a Section 2 challenge.** This particular election system had been established in 1911, before the date of applicability of Section 5 of the Voting Rights Act. Had Section 5 applied, the system when proposed might not have passed muster during the statutorily mandated preclearance procedure which requires that a covered jurisdiction must prove that a proposed change has neither the intent *nor* the effect of discriminating against minority groups. Thus, a paradox exists with respect to the relationship between the Voting Rights Act and electoral systems. While Section 5 jurisdictions generally may not establish at-large systems, such existing systems and systems adopted by non-Section 5 jurisdictions may be imposed and perpetuated regardless of their effect on voting strength.

While a requirement which prohibits dilution of minority voting strength would lean toward Plan B instead of Plan A in an illustrative four-district urban area such as graphically portrayed in *Figure 6*, the "affirmative gerrymandering" approach might favor Plan C (at the cost, it is noted, of some geographic gerrymandering).

*Figure 6****




Note: ▨ denotes minority

These points of view have been criticized on several grounds. First, there has been questioning of one assumption upon which affirmative gerrymandering rests, namely, that minorities make up an essentially unified voting block that will rally behind a minority candidate. It can be argued, of course, that even though minority constituencies will not necessarily elect minority representatives, the larger the percentage of a minority population in a district, the more likely it is that the district will elect a minority candidate. More intensive studies of minority voting behavior may shed light on this issue. However, regardless of

*42 U.S.C. 1973, Section 2: "No voting qualifications or prerequisite to voting, or standard or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color, or in the contravention of the guarantees set forth in Section 1973b(f)2 of this title." Section 2 is interpreted as a restatement of the Fifteenth Amendment which requires a showing of purposeful discrimination.

**64 L. Ed. 2d 119 (1980).

***Each box represents a state; divisions denote districts. Equal population distribution is assumed.



the practical impact of such "affirmative gerrymandering," some political analysts seriously question its theoretical foundation, maintaining that while redistricting should not contribute to discrimination, neither should it carry the burden of compensating for past discriminatory practices. In the words of one expert:

> [A] racial quota [affirmative gerrymandering] could easily be superimposed on a legislative body which is elected by a system of proportional representation. It could simply be required that a particular group's proportion of the total population be reflected in the membership of the legislative body. But to attempt to apply a quota to a legislative body which is geographically based (as are the U.S. Congress and every one of the state legislatures) is to mix two fundamentally incompatible concepts.*

*Time Provisions.* Throughout the redistricting process, there exist steps which may become obstacles to timely action if time limits are not imposed. These include:

- completion of a proposed redistricting plan;
- voter challenge;
- initial court review;
- formulation of an acceptable plan if the initial plan is rejected;
- final judicial decision on acceptance of the plan.

Some improvement advocates believe that there should be few, if any, specifications of time limits since they may be unenforceable if emergencies arise which preclude attention to redistricting matters. These individuals endorse the "as soon as practicable" approach. Others believe that a maximum time limit should be set for some, if not all, major steps. This would help avoid the problem of ultimate plan acceptance after census figures have become outdated or after crucial elections have passed.

Perhaps the most crucial time problems arise in connection with drafting of initial and final plans. Some experts suggest that a time limit be set only for the final product. Interim time limits are unnecessary, they assert, if the final plan is accepted before political interests can predominate. The voter challenge time period is also a subject of controversy. Some proposals allow voters to challenge plans up to 60 days after they have been made public, while others allow up to nine months after establishment of the last district after a decennial census (*e.g.*, S. 596 and Amendment 237 plans, respectively). The shorter period attempts to ensure that litigation will conclude before the next major congressional election takes place. The longer time provision, on the other hand, offers citizens a greater opportunity to participate in the apportionment process and to hold line-drawers accountable. Generally speaking, some articulated time limits, perhaps more as a target than as a rigid goal, would seem desirable in reapportionment standard-setting.

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*Wells, "'Affirmative Gerrymandering' Compounds District Problems," *National Civic Review* (Jan. 1978) at 16.

This discussion has explored the major options under consideration with respect to standards for congressional redistricting. While the options remain open to debate, it appears that virtually all reform interests view mandated redistricting standards as an important element for improving the electoral process.

## IV. The Issues: Who Should Make the Redistricting Decisions?

In addition to a determination of the need for and character of standards, the reapportionment "rulemakers" must be identified, *i.e.*, the body or governmental entity which determines where responsibilities lie for making subsequent decisions. This body possesses the authority to determine whether commissions, state legislatures, or other governmental officials draw district boundaries. If the rulemakers decide that specific processes and specific protections should be included in initial plans, such reviewing responsibility must be allocated. The main candidates for these key duties in the reapportionment process will be discussed separately.

### Who Should be the Redistricting Rulemakers?

The ultimate authority to decide how subsequent redistricting decisions should be made lies with either Congress or the state legislatures.

*Contentions as to Congressional Authority.* It can be readily argued that the Constitution grants Congress this ultimate authority. Article I, Sections 4 and 8 are cited in support of this view. Article I, Section 4 declares that Congress "may at any time by law make or alter" [regulations about the] "times, places and manner of holding . . . [congressional] elections" and Section 8 grants Congress the power "To make all laws which shall be necessary and proper . . ." for carrying out its constitutional powers. This basic authority as well as subsequent judicial interpretations suggest that regulation of redistricting is within Congress' constitutional prerogatives. Indeed, the Supreme Court, on several occasions, has interpreted the Constitution as giving Congress authority over rules affecting congressional elections.* Another argument supporting this view is the pragmatic contention that Congress has exercised such authority in the past on several occasions without encountering serious objections.

*Contentions as to State Legislative Authority.* The National Conference of State Legislatures (NCSL) is perhaps the leading advocate of preeminent authority in state legislatures over reapportionment, and has officially opposed any federally mandated procedures, structures, or substantive standards on redistricting. Those, like NCSL, who favor the current system (which accords state legislatures an essentially free hand, subject, of course, to Supreme Court constitutional interpretations) advance several arguments. First, they maintain that the framers of the Constitution intended that state legislatures have ultimate control, noting that Article I, Section 4, provides that "the times, places and manner of holding Congressional elections shall be prescribed in each State by the Legislature thereof." Testifying before the Senate in 1979, NCSL spokespersons contended that congressional power in Article I, Section 4 to "make or alter" such rules is misinterpreted when applied beyond the most compelling emergency situations:

> Congressional authority to oversee national elections was controversial and was accepted only as an extraordinary device to be used in extraordinary circumstances. It was not intended to grant the national legislature plenary power over elections or to permit that body to interpose its notion of political fairness.*

Although Congress has legislated some standards, state legislatures historically have been responsible for making redistricting decisions. This relative congressional inactivity on redistricting stems largely from a history of lack of enforcement of congressional mandates rather than from any irrelevancy of the rules to improving the process or from an absence of congressional authority to make the rules in the first place.**

The debate about "ultimate rulemaking" authority is of greatest moment where the U.S. Congress and state legislatures would assign subsequent responsibilities in a different manner. Perhaps, then, the most crucial question to be answered is who should have responsibility for drawing district boundaries.

### Who Should be the Initial Apportioning Authority?

This is perhaps the most controversial issue in the reapportionment debate, for it affects a power exercised by state legislatures since the inception of our republic. The two major candidates for the responsibility are commissions and state legislatures. The "commission" concept has generally attracted the "reform" label, yet even some "reformers" hesitate to support it.

Advocates of the "commission" approach feel it has appeal because the "legislated" system allows a great degree of self-interest to operate in the redistricting process. A former Illinois Congressman testified in 1979 that taking redistricting out of legislative hands "greatly reduces the inherent conflict of interest which now exists when the same people who draw a new map and vote on it also have a personal stake in its outcome."*** State politicians have occasionally admitted to this self-interested motivation; many legislators dislike the redistricting responsibility, but use it in "self-defense," with knowledge that if they do not succumb to the temptation of drawing lines favorable to their political interests, their opponents will certainly seek to do so.

Those groups skeptical about commissions suggest that commissioners might be just as subject to political pressures from congresspersons as are state legislators. If the commissioners are political appointees, they may even be more vul-

*See Appendix A, *Baker v. Carr, Ex Parte Siebold, Oregon v. Mitchell.*

*1979 Hearings at 404 (statement on behalf of NSCL of State Senators S. H. Ruayan, Arizona, Ross Doyen, Kansas, and Charles Vickery, North Carolina).

**E.g., see discussion of Standards, at page 10.

***1979 Hearings at 302 (statement of Abner Mikva, formerly 10th Congressional District, Illinois, presently a member of the Circuit Court of Appeals for the District of Columbia).

nerable to political pressures than a legislature elected by the public. Commission supporters respond by endorsing the introduction of safeguards into the appointment process to eliminate "special interest" commission members. In a 1977 article, one redistricting expert pointed to the Arkansas legislative commission (composed mostly of legislative leaders) as a biased body that could not "exercise the independence sought by the advocates of reapportionment reform." He strongly commended, therefore, the "impartiality" restrictions incorporated in the Common Cause proposal.*

Critics of the commission approach also assert that creating commissions unrealistically attempts to remove politics from an inherently political process. It is impossible, the argument holds, to apportion political power by a non-political process. Further, the fact that citizens can vote directly for legislators but not for commissioners may cause voters to feel disenfranchised and removed from the electoral process. Pro-commission authorities concede the importance of a sensitivity to the danger of removing the redistricting process too far from the legislature. They typically stress, however, that the reform is designed not to deny the legislature its interest in reapportionment, but rather to buffer the process from conflict of interest.**

Some experts contend that entrusting redistricting to a commission may bring the process closer to the voter, as many plans implemented in the recent past were drawn by the courts, a body over which voters have even less control than over commissioners. However, proponents of the current system assert that commissions boast no better "track record" than do legislatures in terms of producing plans acceptable to the courts. While there exist few statistics relating to commissions drawing congressional lines, the information about state legislative commissions and reapportionment commissions in other countries may shed light on the issue. According to NCSL, only a "handful" of states have seen their congressional plans redrawn by the courts, and one recent study of redistricting practices suggests that the overall record of some bipartisan commissions has thus far been shown to benefit the party controlling the state legislature more than have the other methods.*** Furthermore, according to 1974 data, about a third of the plans initially proposed by both state legislatures and the courts were rejected initially by appellate courts.

While these statistics offer meager support, if any, for the commission concept, commission proponents point to other data that tend to corroborate the improved commission track record. First, many reformers take issue with the "handful of states" estimate. In fact, most estimates are that between 25 percent and 35 percent of current house district lines were drawn by the courts. A 1973 study by the Council of State Governments concluded, moreover, that commissions seemed to establish better track records than state legislatures.**** Other analysts point to commissions in other countries (*e.g.*, Australia, Canada, and

*Adams, "A Model Reapportionment Process: The Continuing Quest for 'Fair and Effective Representation,'" *supra* at 868. Adams is a principal architect of the Common Cause models.

**It is worth noting that the most direct conflict of interest concerns legislative districts. While state representatives may run for congressional seats (and thus benefit directly from congressional lines), they more often run for reelection in their state house and senate.

***1979 Hearings at 424 (statement of Eric Uslaner).

****Council of State Governments, *Reapportionment in the Seventies* 11 (1973).



Great Britain), suggesting that their record of electoral equity is better than that of those in the United States. Although the controversy about actual performance may be resolvable only with further study, it does seem clear that more than a "handful" of congressional redistricting plans initially drawn by state legislatures have been found unacceptable in the courts.

A collateral consideration in assessing performances is economy, *i.e.*, whether commissions can save time and money. Because commissions would be created for the specific purpose of efficiently and equitably preparing redistricting plans, their entire organization could be shaped toward that end. Such specialization is, of course, extremely difficult in a state legislature with numerous and diverse responsibilities. Unfortunately, reliable estimates of the comparative costs of commission versus state legislature formulation of plans are not readily available. Yet, there are some figures which provide an initial framework. From 1971 to 1973, the California legislature invested approximately $1 million developing a redistricting plan (which was ultimately replaced by a court-appointed Special Masters' Committee plan) and in 1971 there were over 26 full-time legislative staff members working on the California redistricting. Hawaii's reapportionment commission spent about $200,000; Montana's spent approximately $20,000.* These figures suggest that the dollar dimension of the debate, even if not an overriding consideration, merits some study.

In addition to criticism of the "commission" approach, advocates of state legislature line-drawing advance several positive claims. It is commonly asserted that state legislatures have not abused their discretionary powers. It is argued that since forty-two states have a population deviation of less than 1 per cent *(i.e.*, in these states, the population of the greatest district does not exceed by more than 1 per cent that of the smallest district),** this demonstrates that legislatures have made a concerted effort to draw fair districts. Thus, since the only constitutional requirement of fairness articulated by the Supreme Court is population equality, and since the legislatures are adhering to that rule, they have made a "good faith" (and largely successful) effort to establish fair district lines. As noted earlier, reformers caution that although population equality is necessary for fair redistricting, it is not alone sufficient.

Even if the commission concept is accepted, controversies can arise concerning both the method of selecting commission members and their number. The greater the number, the more likely it is that the commission will take into account minority views. However, a large membership may increase financial costs while reducing the likelihood of a consensus. An equally troublesome question is, who should mandate the commissions—Congress or the states? Those supporting the congressional approach maintain that it will ensure that all states establish commissions whose members are selected in the most impartial and uniform way possible. Critics, however, question both the political and constitutional advisability of federally mandated commissions. They voice the view that the redistricting mechanism should be left in state hands, where it can be held accountable to the citizens. They also express concern that members of a federally mandated com-

*Adams, "A Model Reapportionment Process: The Continuing Quest for 'Fair and Effective Representation'," *supra* at 856, n. 115.

**1979 Hearings at 401 (statement of North Carolina State Senator Charles Vickery, citing *Congressional Quarterly*).

mission may view themselves as ultimately accountable to the federal government, to the detriment of viable state government.

Constitutional questions also have been raised in this area, especially with respect to congressional authority to specify the method of commissioner selection. Plans requiring certain state legislators to appoint commission members, for example, might violate the "appointments clause" of the Constitution which requires that certain "Officers of the United States" be nominated by the President and confirmed by the Senate.*

Three congressmen advanced this argument in 1979 before a House Subcommittee, pointing out that it was their understanding that (i) commission proposals do not specifically define whether a commission would be a state or federal agency, (ii) if a federal agency has more than investigatory and informatory powers, its members must be selected in conformity with the "appointments clause," and (iii) since the commissions would be responsible for making reapportionment decisions (clearly more than investigatory and informatory powers), the constitutionality of their selection by party members in the state legislatures would clearly be put into question.** They also suggested that congressional specifications as to commission selection and membership might violate states' rights under the Tenth Amendment, by requiring rather than authorizing state officials to perform federal duties. These views are questioned by legal experts for groups espousing redistricting commissions who see no "appointments clause" issue where purely legislative functions are involved (as in preparing district plans) and discern in the broad federal authority recognized by the courts over congressional elections the legitimate power to specify redistricting procedures such as commission mechanisms.*** Thus, it appears that the issue of congressionally mandated reapportionment commissions must await judicial interpretation for final constitutional validation (although little constitutional question exists that the states may proceed with this technique on their own initiative).

A further line of thinking in this vein merely dismisses commissions as lacking relevancy and meaning with respect to the problems of fair apportionment. On the one hand, it is claimed that if there are fair and clearly defined redistricting standards and if there are "accountability" provisions serving as a check on the redistricting authority, it makes little difference what body holds the redistricting responsibility. Thus, each individual state should choose whatever method of

*Article II, Section 2, cl. 2: "He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may by law vest the appointment of such inferior officers, as they think proper, in the president alone, in the courts of the law, or in the heads of departments."

**1979 Hearings at 35-36 (statements of Representatives James Leach, Robert Kastenmeier, and William Frenzel relying on *Buckley v. Valeo*, 424 U.S. 1 (1976), interpreting the case as holding in part that if a federal agency has more than investigatory and informatory powers, member selection must conform to the "appointments clause.").

***See, e.g., 1979 Hearings at 67-75 (statement of Common Cause General Counsel K. Gmdo, *The Constitutionality of the Antigerrymandering Act of 1979*, relying on *Ex Parte Seibold* (1880), *Smiley v. Holm* (1932), and *Oregon v. Mitchell* (1970), as establishing Congress's clear power to divest states of all control over redistricting and, therefore, also to exercise more limited prerogatives of specifying procedural rules and methods for that function.).



reapportionment would, in its political context, be consistent with fulfilling these other major requirements. On the other hand, there are those who remain skeptical about articulating any reform measures, feeling that those who wish to exploit the redistricting process for reasons of political self-interest will find a way to circumvent even the most clearly defined rules.

### Accountability Provisions: Who Should Judge the Plan?

Even if the initial reapportioning authority has built-in fairness safeguards in terms of character, independence, representativeness, and procedural standards, it must be recognized that unforeseen injustices may still result. Thus, the major reform proposals all incorporate some accountability provisions. These include:

- providing for open hearings when the line-drawers are considering redistricting options;
- requiring public notice of redistricting hearings;
- making the record of any hearings publicly available (perhaps by publication in legislative journals);
- affording the opportunity to qualified voters to challenge a proposed plan within a reasonable period (affording sufficient time to become acquainted with the line-drawing proposals and to prepare necessary information for the challenge, but not so long as to delay unduly final determinations) and, possibly, with waiver or reimbursement of attorney's fees for successful challenges;
- placing authority in federal courts for expeditious review of plans, either through challenge initiatives or automatically; and
- allocating responsibility for replacing inadequate or objectionable plans—with redrawing to be accomplished by initial redistricting body, a new group, or the courts.

With respect to judicial review measures, questions arise concerning what specific time provisions should be included in the authorizing bills, and whether there should be automatic judicial review as opposed to review only of those cases which are challenged. Automatic review now occurs for legislative reapportionment plans in Colorado, Florida and Kansas. It offers the advantage of a routine and more thorough check on initial plans, as courts may catch improprieties which public scrutiny misses. However, automatic review also raises questions. In particular, it is interpreted as permitting the courts too great a role in the redistricting process.* The underlying argument stresses that the legislative and not the judicial branch of government should possess the primary authority over redistricting; the courts should not operate as the ultimate arbiter and approver of electoral system arrangements of this kind. An additional problem identified with respect to automatic judicial review is that the courts must make a judgment without the benefit of the adversarial process, a role for which they are not optimally suited.

*See, e.g., *White v. Weiser*, 412 U.S. 783 (1973) where the Court rejected a Texas redistricting plan on the basis of "avoidable" deviations. Four justices dissented, asserting that the ruling in effect established a *de minimus* role for state legislatures where the state was not even required to justify population variances.

The problem of revision or redrafting where initial plans are rejected has also generated some differences of approach. One option dictates that courts redraw plans themselves or appoint other apportioning authorities if they reject the first plan proposed. Others follow this course only when the initial apportioning authority fails twice; such a "second-try" approach is usually defended for plans which call for redistricting commissions. An underlying rationale reflects the concern that members of a nonpartisan commission, knowing that a court of their political persuasion will take over the reapportionment process should the commission fail to act, might be inclined to force a deadlock. Moreover, the commission would likely have at its disposal staff, resources, and experience not readily available to the court, which it could employ in formulating a new plan.

Although many of the accountability provisions remain subject to debate, particularly in their detailed content, most redistricting reformers agree that this is a crucial component for improvement. Similarly, while influential groups may differ as to who should make redistricting decisions and how critical these decisional bodies are, most seem to join forces in recognizing the importance of accountability factors to an equitable reapportionment process.

## V. Concluding Observations

This monograph has attempted to identify problems associated with the current congressional redistricting system and to review the various proposals for improvement along with major arguments which have been advanced in favor of and against them. It is hoped that this analysis will enhance understanding of the important issues involved, and that it will motivate groups and individuals both within and outside the legal profession to formulate their own views, consider remedial action and resist deterrence to change by traditional obstacles in this field.

The improvement proposals under consideration and debate fall into two broad categories—structural change (largely focused on the use of special commissions for developing reapportionment plans) and promulgation of standards to help ensure fairness and equity in line-drawing (based on a handful of principles running from population equality through encouragement of minority influence). Concurrently, two levels of legislative initiative for such reforms are under consideration and debate—federal and state.

It is not the intent or function of this pamphlet to advocate specific reform positions. However, redistricting equity remains a problem for the nation and optimal solutions and conditions do not yet appear to have been devised, no less incorporated in existing processes. Thus, a measure of experimentation with the new reform concepts seems desirable; the American Bar Association has formally endorsed such a posture in relation to the 1980 census redistricting process.*

The nation's experience with redistricting commissions has not been sufficiently widespread or intensively evaluated to draw final conclusions as to universal value or the most desirable subfeatures and characteristics. Thus, it would seem that those who call for state initiatives in jurisdictions so inclined, rather than for a mandate that all states establish commissions, would offer the most promise and the best opportunity to evolve optimal structures for reapportionment.

*See Appendix B.



Federal rules governing redistricting standards, rather than governing methods to apply these standards, however, may be beneficial, although existing uncertainties as to the best "mix" and order of priority among the most commonly cited standards (*e.g.*, population equality, compactness, contiguity, avoidance of intentional political preference) suggest that such formulations might do well to leave some room for state flexibility and experimentation in detailed definition and ordering of any standards articulated.

Whatever the case, carefully studied and soundly conceived redistricting reform promises to aid many sectors of society:

- voters in general whose voice will be heard more clearly when election results are not predetermined by gerrymandering, when competition for congressional seats is maximized, and when representatives must focus their responsiveness on voters rather than on line-drawers;
- racial and ethnic minorities whose interests have often been subordinated in past redistricting practices;
- congressional candidates from minority parties and challenger groups who no longer need hurdle undue barriers of self-protection constructed by incumbent politicians;
- state legislators who will be liberated from political pressures which may influence them to manipulate the line-drawing process;
- courts which will have clearer guidelines concerning the acceptability of redistricting plans; and
- rural and suburban communities (when gerrymandering has been used to strengthen unduly the urban voice) and urban residents (when line-drawers have attempted to increase unduly rural representation).

Indeed, virtually all sectors of society can benefit from congressional redistricting improvement which aids the American electoral machinery in functioning according to our highest ideals of representative government. The time is right—for thought, for decision, and for new levels of achievement.

# APPENDIX A

## IMPORTANT DATES IN REDISTRICTING HISTORY

| DATE | ACTOR | EVENT | DESCRIPTION | STATE LEGISLATIVE/ CONGRESSIONAL |
|---|---|---|---|---|
| 1842 | U.S. Congress | 5 Stat. 491 | First federal statute requiring states to establish congressional districts. First congressional attempt to impose standards in congressional redistricting: compactness, contiguity, single-member districts. | C |
| 1872 | U.S. Congress | 17 Stat. 28 | Reiterated 1842 standards; set forth population equality standard. Reiterated in 1882, 1891, 1901. | C |
| 1880 | U.S. Supreme Court | *Ex Parte Siebold* | Congress has supreme authority over congressional election rules. | C |
| 1911 | U.S. Congress | 1,2,37 Stat. 13,14 | Reiterated 1872 requirements. Fixed number of U.S. House members at 435. | C |
| 1929 | U.S. Congress | 46 Stat. 21 | Required automatic reapportionment on basis of population after each decennial census. | C |
| 1932 | U.S. Supreme Court | *Ex. Rel. Smiley v. Holm* (Minnesota) | Congress has "authority to provide a complete code for congressional elections." | C |
| 1946 | U.S. Supreme Court | *Colegrove v. Green* (Illinois) | Courts lack authority to judge fairness of a political matter such as redistricting plans. | C |
| 1960 | U.S. Supreme Court | *Gomillion v. Lightfoot* (Alabama) | Gerrymandering of city boundaries with a clearly defined racial motive is unconstitutional. | L |
| 1962 | U.S. Supreme Court | *Baker v. Carr* (Tennessee) | Federal courts have authority to judge fairness of legislative redistricting plans | L |
| 1964 | U.S. Supreme Court | *Wesberry v. Sanders* (Georgia) | "One man, one vote" ("as nearly as practicable") standard: strict numerical equality among populations in congressional distr[illegible] | C |

| DATE | ACTOR | EVENT | DESCRIPTION | LEGISLATIVE/ CONGRESSIONAL |
|---|---|---|---|---|
| 1964 | U.S. Supreme Court | *Reynolds v. Sims* (Alabama) | Both houses in state legislature must meet the "as nearly as practicable" standard; some deviation is allowed to accommodate other relevant considerations. (*e.g.*, preserving political subdivisions). | L |
| 1964 | U.S. Supreme Court | *Wright v. Rockefeller* (New York) | To prove gerrymandering unconstitutional on grounds of discrimination, challenger must show evidence of discriminatory effect and purpose. | C |
| 1965 | U.S. Congress | Voting Rights Act, 42 U.S.C., 1971, 1973 et seq. | States with past history of discrimination must submit electoral changes to Department of Justice for preclearance. State plan may be rejected if either intent or effect is to dilute minority power. Protected language minorities include Alaskan natives, American Indians, Asian Americans, persons of Spanish heritage. | C,L |
| 1966 | U.S. Supreme Court | *Burns v. Richardson* (Hawaii) | Redistricting plans are not necessarily unconstitutional if merely designed to reduce competition among incumbent legislators. | L |
| 1967 | U.S. Congress | 2 U.S.C. § 2c | Banned at-large congressional elections. | C |
| 1967 | U.S. Supreme Court | *Swann v. Adams* (Florida) | Although rejecting legislative apportionment plan, the court recognized that *de minimus* numerical deviations are unavoidable in state legislative apportionment. | L |
| 1969 | U.S. Supreme Court | *Kirkpatrick v. Preisler* (Missouri) | States must make "good faith effort" to achieve "precise mathematical equality" and must justify all population deviations. | C |
| 1969 | U.S. Supreme Court | *Wells v. Rockefeller* (New York) | Strict mathematical equality is required. Invalidated plan which set up a New York congressional district with maximum deviation of 6.6%. | C |
| 1970 | U.S. Supreme Court | *Oregon v. Mitchell* (Oregon) | Reiterated Congress's ultimate authority over congressional elections. | C |



| DATE | ACTOR | EVENT | DESCRIPTION | LEGISLATIVE/ CONGRESSIONAL |
|---|---|---|---|---|
| 1971 | U.S. Supreme Court | *Whitcomb v. Chavis* (Indiana) | Multimember state legislative districts are not unconstitutional *per se*; challengers must prove unconstitutional dilution of voting strength. | L |
| 1971 | U.S. Supreme Court | *Connor v. Johnson* (Mississippi) | Where a federal court fashions a redistricting plan, single-member districts are preferable to multimember districts. | L |
| 1973 | U.S. Supreme Court | *White v. Regester* (Texas) | Certain population deviations are permissible in legislative redistricting plans if effected to accommodate rational state policies (e.g., preserving political subdivisions). Multi-member districting is unconstitutional if it dilutes the votes of a racial minority. | L |
| 1973 | U.S. Supreme Court | *White v. Weiser* (Texas) | Deviations of 2.43% above average and 1.7% below average in Texas congressional districting plan deemed unacceptable, since districts were not as mathematically equal as practicable. | C |
| 1973 | U.S. Supreme Court | *Gaffney v. Cummings* (Connecticut) | States not required to justify minor population deviation in legislative districts; a legislative district plan may constitutionally be drawn with intent to reflect political make-up of state. | L |
| 1973 | U.S. Supreme Court | *Mahan v. Powell* (Virginia) | Upheld a Virginia legislative plan which produced a maximum population deviation of 16.4%, deeming the plan a rational means to preserve political subdivisions. | L |
| 1977 | U.S. Supreme Court | *United Jewish Organizations v. Carey* New York | Racial criteria may be used in drawing legislative district lines if designed to comply with Voting Rights Act. | L |
| 1980 | U.S. Supreme Court | *City of Mobile v. Bolden* (Alabama) | Public officials may be elected at-large even though preclusion of election of minorities may thereby result, where plaintiffs in non-Voting Rights Act jurisdiction fail to show intent to discriminate in the election mechanism or procedure. | L |

# APPENDIX B

## AMERICAN BAR ASSOCIATION RESOLUTION ON FAIR REDISTRICTING

**(House of Delegates: February 1979)**

*Note:* The following resolution relates to voter participation initiatives extending well beyond legislative reapportionment. While the complete resolution is set forth, only that commentary from the underlying report which relates to redistricting has been excerpted.

### RECOMMENDATIONS

BE IT RESOLVED, that the American Bar Association urges the President of the United States to appoint a commission of distinguished persons from various walks of life to study the decline in voter participation in the electoral process and to make appropriate recommendations, such study to culminate in a White House conference on the subject of declining voter participation; and

BE IT FURTHER RESOLVED, that the American Bar Association supports the enactment of legislation that encourages voter participation, eliminates mechanical barriers to voting and provides for fair redistricting pursuant to the 1980 census without regard to partisan advantage; and

BE IT FURTHER RESOLVED, that the state and local bar associations be urged to support and join with the American Bar Association in this program to improve and enhance voter participation.

### REPORT (Excerpts)

3. *Redistricting Pursuant to the 1980 Census*

Many of the participants in the Palo Alto conference* stated that persons frequently do not vote because politically motivated manipulation of the borders of legislative districts has prevented citizens from developing a sense of community identity with the area in which they vote. Also, such districting practices actively skew the voting power that does exist, such as when cohesive communities are broken into several legislative districts. Such gerrymandering was said to have resulted to a large extent from the judicial prescription of "one man, one vote." The sense of the conferees was that legislative districts can comply with that principle and still represent cohesive communities. Accordingly, they suggested that, at the next chance for redistricting, the ABA take an active role in supporting fair and representative legislative districts, drawn without regard to partisan advantage.

Among our recommendations for action is that the Association support the concept of fair redistricting pursuant to the 1980 census. We believe that there

*Symposium on Citizen Participation in Government, sponsored by the Special Committee on Election Law and Voter Participation, June 1978. See proceedings published in *The Disappearance of the American Voter* (1979).



should be a statement of principle at this time because of the proximity of the census, following which virtually every state will be required to redraw the boundaries of congressional and state legislative districts. We believe that well in advance of the required redistricting the Association should be on record in support of the goal of fair representation for all citizens without regard to partisan advantage. In this regard, we should note that one of the recurrent themes at the Palo Alto conference was that one of the side effects of gerrymandering was a lack of competition in electoral politics, thereby decreasing the level of participation. Our redistricting recommendation does not endorse any specific method of reapportionment. Toward that end we plan to sponsor a future conference on the subject of redistricting.*

*Held in San Diego, California, June 1980. Attended by approximately forty election law experts, state legislators, attorneys, citizen groups and mathematicians, the three day session has been transcribed for publication. See *Representation and Redistricting in the 1980s*, ed. by Grofman, Lijphart, McKay, and Scarrow (Lexington Books, 1981, forthcoming).

# APPENDIX C

## ABA SPECIAL COMMITTEE REPORT ON REDISTRICTING

### (Excerpts, August 1980)

Since its last report to the House of Delegates in February 1980, the Special Committee has focused its attention on three major areas of election law: redistricting, absentee voting, and campaign finance.

### REDISTRICTING: Introduction

In February 1979 the House of Delegates of the American Bar Association adopted, on the recommendation of our Committee, a series of resolutions on the subject of voter participation, among which was a resolution calling for "fair redistricting pursuant to the 1980 census without regard to partisan advantage." In launching a program to encourage voter participation, the Association authorized our Committee to co-sponsor, with the National Science Foundation, a conference on representation and apportionment issues in the 1980s.

This conference was held in San Diego, California, June 11-15, 1980. It was attended by distinguished political scientists, mathematicians, reapportionment and election law experts, representatives of congressional and state legislative committee staffs, lawyers, and representatives of various public interest groups including the League of Women Voters, Common Cause and the Mexican American Legal Defense and Educational Fund. The conference discussions focused on such districting subjects as the use of single-member districts, the legal criteria for determining the fairness of single-member districts, electoral mechanisms other than single-member districts, the policy consequences of reapportionment, representation within the political party system, and theories of representation. A number of scholarly papers were prepared for the conference, which, along with commentaries on the proceedings, will be published in a separate volume.* We believe this volume will be an invaluable aid to members of legislative bodies, lawyers and judges, as they grapple with the important representation and apportionment issues of the 1980s. How these issues are handled will be of critical importance to our nation and to the integrity, vitality and effectiveness of our electoral system and government for the next ten years.

For that reason, we believe it of great importance that a national dialogue be opened at this time on the mixed legal and political issues of redistricting and apportionment. Although our examination of these issues will continue into 1981, we felt it valuable to set forth in this informational report some of the preliminary conclusions we have reached as a result of our study of this area.

### General Observations

We feel that the entire problem of reapportionment and redistricting is exceedingly complex, and quite possibly does not permit a national solution that is either appropriate or realistic in all fifty states. Of fundamental concern is the fact that reapportionment and redistricting are important aspects of deciding the allocation of political power within an electorate.

Because the districting process amounts to an allocation of political power and because of the obvious conflicts in having the legislatures control the process, various proposals have been submitted, some of which would create independent commissions to do the actual job of redrawing district lines. While these commission proposals may have merit (a proposition on which we now express no opinion, pro or con), it is probably utopian to expect that many legislatures are now prepared to adopt such proposals.

We do feel, however, that the time is ripe for each state to consider the standards it will apply in its actual redistricting process. Adopting standards before beginning the actual districting process has at least three advantages. First, it would make more open and public the bases upon which political power would be reallocated. Second, it would establish a framework for accomplishing the redistricting itself. And third, it would establish the benchmark against which the eventual districting plan could be evaluated by the public, the press, and (in the event of judicial appeal) the courts.

An underlying assumption is that the redistricting process—both the adoption of standards and the drawing of district lines—should be open and public. It is certainly apparent that the conflicts of interest inherent in the process are reduced by public and media scrutiny.

### The Districting Standards

The next, and most fundamental, question is, specifically, what should these standards be? While one scholar has identified at least sixteen standards, not all possible standards will be relevant or appropriate in each state.* Nonetheless, there are certain basic standards which deserve consideration in every state.

The most obvious standard is population equality. Ever since the "apportionment" decisions of the U.S. Supreme Court, very close population equality has been constitutionally required. Many states have set their own standards in this regard, and it is worth noting that some states allow even less population variance from district to district than do the federal court decisions.

Other standards include the extent to which electoral districts should be compact and/or contiguous; follow local political boundaries; and be drawn to concentrate identifiable groups (whether political, ethnic, or economic) in the district.

Two other standards, which have not received the in-depth judicial scrutiny that population equality has, pertain to the functioning of a democratic form of government. The first of these is the principle that the party or faction receiving a state-wide majority of votes should also receive a majority of the seats in the legislature, so that it is able to carry out its mandate to govern. Another standard involves an application of the principle of competitiveness so as to ensure voter interest in district elections.

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*One paper presented at the conference, by Professor Michel Balinski, raised questions about the formula that should apply in allocating congressional seats among the states. Another paper, by Professor Steven Brams, suggested the introduction of a new voting system called "approval voting."

*The San Diego conference volume will contain an extremely useful section on the criteria for redistricting and reapportionment.

## Standards: Conclusions

In considering the adoption of standards, each state will be faced with some very hard choices. This is because, by adopting and following one standard, a state may in certain cases make it impossible to follow another. Therefore, the adoption of standards likely will require their prioritization. The critical point is that because the process is a difficult one, now is the time for the states to begin dealing with the complexities of redistricting before the process is upon us.

## Single-Member Districts as a Norm

As a result of its consideration of the consequences of using different types of districting, our Committee believes that a single-member districting system generally is the best and most effective form of district representation.

Single-member districts allow voters in a district to choose one representative, *i.e.*, one legislator or one county commissioner. Multi-member districting permits a citizen to select more than one representative. The geographical area and population of multi-member districts are usually much larger than those of a single-member district. Some states and localities use a combination of single and multi-member districts, including at-large elections, where all voters in a political subdivision vote for several representatives. The impact of districting is fundamentally the same no matter what type of governmental entity (city, county, state) is involved.

In favoring the use of single-member districts, we note that such a districting system has worked well for congressional elections. Authorities who have studied the subject point to a number of advantages to the single-member districting system:* a single-member district is smaller than an at-large or multi-member district, which permits closer contact between the single representative and his or her constituency. The smaller district also provides greater accountability to the electorate, who will be better informed of the activities and voting record of the sole representative. In addition, political and racial minority groups who at times have had their voting power and strength diluted by larger multi-member districts will have greater impact on the elections and a better opportunity for election to office from within the district. Finally, election campaigns would also be affected by the choice of single-member districting. It is likely that campaign costs would be decreased as a result of reducing the size of the area and population of a district and limiting the election to one representative. The nature of campaigning might also change, by reducing the impact and necessity of extensive media advertising. More effort could then be expended on neighborhood and local campaigning, which should allow the electorate to become better acquainted with the candidates. Significantly, by reducing the cost of campaigns, it is likely that more individuals would be able to run for office, thereby making the process more competitive.

While single-member districting is by no means the panacea to representation problems, we believe it would go a long way toward ensuring more effective representation and a greater opportunity to participate in government and the electoral process

The foregoing discussion outlines the intricate nature of the redistricting question. In view of the complex issues which require resolution before "fair districting without regard to partisan advantage" can take place, our Committee urges that legislators, lawyers and all reapportionment experts take up the question at this time.

*The San Diego conference volume will contain an extensive section on this subject.



Respectfully submitted,

John D. Feerick, Chairman

August 1980

# APPENDIX D

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# Reapportionment—Dividing the Power

BY CAROLYN KENTON, CSG, Lexington

The decennial struggle for controlling political power and influence is in full swing. The process of recarving the political pie, which is called redistricting, was triggered by the 1980 census on the congressional and the state legislative levels.

### Congressional Redistricting

The political composition of Congress will be altered by the redistribution of seats among the states due to population shifts. In addition, it appears as though most states will have redrawn congressional district lines prior to the 1982 elections. Six states will have only one congressman and require no districting —Alaska, Delaware, North Dakota, South Dakota, Vermont and Wyoming. Another 14 states—Alabama, Arkansas, Idaho, Indiana, Iowa, Mississippi, Nebraska, Nevada, North Carolina, Oklahoma, Oregon, Tennessee, Texas and Virginia—have redrawn congressional district lines to conform to the 1980 census figures. Of the remaining 30 states, eight are expected to address the issue before the first of the year.

The standard for drawing congressional districts is simple and straightforward. The districts must be as nearly equal in population as possible. So far, the U.S. Supreme Court has not been willing to interject any other criterion except that imposed by the Voting Rights Act and the equal protection provisions of the 14th and 15th Amendments to the U.S. Constitution.

The new congressional districts appear to be satisfying the court's requirements for "one man, one vote." Eight of the 14 new congressional plans have an overall population difference between the largest and smallest district of less than 1 percent. The remaining six have a population difference of 2-3 percent or less.

### Gerrymandering Charged

The reliance on population equality gives redistricting cartographers leeway in drawing lines and leaves the door open to gerrymandering.

Partisan battles in the states have been intense. In states controlled by a single party—governor and legislature—the party out of power and some political observers have accused the controlling party of gerrymandering. Republican Gov. John Spellman of Washington considered the Republican-drawn plan so badly gerrymandered that he vetoed it. In Indiana, the legislature and governor apparently tried to change the congressional delegation from the present 6-5 Democratic edge to a 7-3 Republican edge (Indiana lost one congressman). To accomplish this, two existing Democratic districts were divided into four new ones and three Democratic congressmen were placed into one district.

States with divided political control—one or more houses of the legislature controlled by the opposition party—have also suffered problems. Democratic Gov. Richard Lamm of Colorado has vetoed two congressional plans drawn by the Republican legislature although the largest and smallest districts had a population difference of only 41 people in one plan.

The governors of Idaho, Oregon and Tennessee allowed the opposing legislative party's congressional plans to become law without their signatures.

Three states—Illinois, Minnesota and Missouri—have suits pending which would declare the existing congressional districts invalid, therefore requiring that they be redrawn before new elections could be held. These suits were filed after an apparent political impasse on the enactment of a plan developed by the parties in the legislature and/or the governor.

The majority of congressional districts will be redrawn through the normal legislative process. The exceptions are Hawaii and Montana, where commissions are responsible, and Connecticut, where a commission will be appointed to draw them because the legislature was unable to meet an Aug. 1 deadline. Plans will be prepared in Iowa by the Legislative Service Bureau and in Maryland by the governor, but the legislatures must still act on them. Generally speaking, however, congressional districts are much easier for state legislators to redraw than are legislative districts.

### Legislative Redistricting

State legislatures have doggedly plunged ahead with their own redistricting. Redistricting is expected to be completed before the next legislative election in all states except Kansas, Kentucky, Maine, Massachusetts, Montana and New York. To date, 22 states have adopted a plan for one or both legislative houses.

The Texas and Virginia house plans have been ruled unconstitutional. The Texas Supreme Court ruled the house plan split counties unnecessarily in violation of the state constitution. The Texas plan will now be drawn by the Legislative Redistricting Board which will also draw the senate districts. In Virginia, a three-judge federal district court ruled the house plan invalid because of the large disparity—over 26 percent—between the largest and smallest districts. The court allowed the election for delegates to the house to proceed on schedule this fall, but shortened their terms to one year and required the legislature to redraw the house plan before Feb. 1982.

### State Legislative Criteria Differs

The rules governing legislative redistricting as set out by the U.S. Su-

(continued)



# STATISTICAL MEASURES OF POPULATION EQUALITY

| | | |
|---|---|---|
| Ideal District Population | equals | the Total State Population divided by the Number of Districts. |

## FOR INDIVIDUAL DISTRICTS

| | | |
|---|---|---|
| Absolute Deviation | equals | the District Population minus the Ideal Population. |
| Relative Deviation | equals | the District Population divided by the Ideal Population (usually expressed as a percent). |

## FOR ALL DISTRICTS COLLECTIVELY

Range

| | | |
|---|---|---|
| Absolute Range | is | the largest District Population and the smallest District Population. |
| Relative Range | is | the largest district Relative Deviation and the smallest district Relative Deviation. |
| Overall Range | equals | the largest district (Absolute, Relative) Deviation plus the smallest district (Absolute, Relative) Deviation (ignoring + and - signs). |
| Absolute Mean Deviation | equals | the sum of all the districts' Absolute Deviations divided by the Number of Districts (ignoring + and - signs). |
| Relative Mean Deviation | equals | the sum of all the districts' Relative Deviations divided by the Number of Districts (ignoring + and - signs). |
| Standard Deviation | equals | the square root of the sum of all the squares of all the districts' Deviations divided by the Number of Districts. |

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# FOREWORD

This Bibliography is the second in a series of resource materials to be released by the Reapportionment Information Service of The Council of State Governments. The first document released in December 1980, was a Directory of people and organizations actively involved in reapportionment.

The Bibliography includes published and unpublished materials on reapportionment, legislative districts, elections and representation. It covers the years from the early 1970's to the present comprehensively. Citations to earlier documents reflect their long term relevance to the understanding of the current reapportionment process.

The Bibliography is organized into two parts. The first part is a numbered, alphabetical listing of all entries. The second part is a brief index dividing entries into broad subject areas.

For additional information on the 1981 Reapportionment process, interested persons should contact Carolyn L. Kenton, Director, Reapportionment Information Service, The Council of State Governments, P. O. Box 11910, Lexington, Kentucky, 40578 (606) 252-2291.

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# Reapportionment Bibliography Index


At-Large Districts . . . . . 32, 50, 75, 170

Bibliography . . . . . 207, 16

Census Data . . . . . 17, 28, 82-83, 130, 242, 252

Computers and Technology
. . . . . 21, 42, 77, 107, 178-179, 187-188, 201, 230

Congressional Redistricting
. . . . . 11, 109, 117, 123, 149, 153, 15, 228, 260

Districts . . . . . 114, 182, 205
At-Large . . . . . 5, 32, 50, 75, 116, 170
Multimember . . 29, 35, 53, 61, 68-69, 86, 93, 131, 152, 175, 270

Elections . . . . . 41, 72, 100, 176, 237, 244

Equal Representation
. . 13, 44, 46-47, 49, 52, 59, 71, 78, 92, 97, 103, 113, 115, 116, 128-129, 135, 138, 151, 156, 163, 168, 186, 197, 202, 209, 211, 217, 223, 243, 247, 250, 259, 262

Gerrymandering
. . . 9, 19, 36, 45, 84, 90, 124, 158, 177, 191, 253, 255, 266
Affirmative/Racial
. 33, 39-40, 55-56, 58, 73, 91, 96, 102, 105, 108, 192, 194, 202, 206, 218, 254, 264-265
Political . . . . . 196, 241

Judicial Intervention
. . 57, 63, 89, 98-99, 109, 134, 148, 171, 184, 193, 248, 271

Minority Politics . . . . . 220-221, 233-234

Multimember Districts . 29, 35, 53, 61, 68-69, 86, 93, 152, 175, 270

Reapportionment
California . . . . . 144, 219, 226
Commissions . . . . . 1, 24, 37, 154-155
Courts . . . . . 185
Criteria . . . . . 2, 60, 150, 157, 174, 230, 261
Florida . . . . . 76
General . 4, 6-8, 10, 20, 38, 79, 81, 110-112, 119, 127, 132, 136, 137, 139, 141-143, 147, 173, 198-200, 203-204, 210, 212, 213-214, 231-232, 238-239, 245, 263
Illinois . . . . . 269
Impact . 22-23, 25-27, 30, 34, 64, 88, 94-95, 99, 101, 104, 121, 125-126, 133, 146, 183, 189-190, 219, 222, 225, 233,

234-235, 249-250, 256, 258
Judicial . . . . . 159
Kansas . . . . . 63
Law . . . . . 15-16, 31, 48, 65-66, 140, 172, 180, 216, 272-274
Local . 3, 32, 51, 54, 62, 67, 6, 80, 7, 106, 118, 122, 129, 160, 161-162, 164-167, 181, 194, 205, 215, 217, 236, 240, 275
Massachusetts . . . . . 169
Mississippi . . . . . 19
New York . . . . . 145-146, 224, 227, 267-268
Oklahoma . . . . . 18
Pennsylvania . . . . . 14
Tennessee . . . . . 64
Washington . . . . . 261
Wisconsin . . . . . 246

Voting Rights Act . . . . . 43, 70, 87, 195, 229, 251

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LEGISLATURES
APPORTIONMENT

# Reapportionment Information Update

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COUNCIL OF STATE GOVERNMENTS
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STATES INFORMATION CENTER

## U.S. SUPREME COURT DECIDES NEW JERSEY AND PENNSYLVANIA REDISTRICTING CASES

In a landmark decision, the U.S. Supreme Court has tightened the "one-person, one-vote" criterion for assessing congressional redistricting being challenged in the courts. While the High Court found the New Jersey congressional redistricting plan unconstitutional on the issue of population deviation, it upheld the Pennsylvania congressional districts without comment.

On June 22, the U.S. Supreme Court struck down the New Jersey congressional redistricting plan finding that an overall population range just under .70 percent does not conform to the constitutional requirement for equal representation. In a five-to-four vote, the court ruled in Karcher, et al. v. Daggett, et al. (No. 81-2057 and formerly Forsythe, et al. v. Kean, et al.) that there are no de minimis population variations that can stand constitutional muster, and the states must adhere as closely as possible to the "one-person, one-vote" standard of reapportionment. In challenging congressional redistricting plans, the plaintiffs must prove that population differences among districts can be reduced or eliminated in a conscientious effort to design districts of equal population. If the plaintiff's arguments are satisfactory to the court, the states have the burden of proving that deviations from equality are necessary to achieve a legitimate state goal.

In defense of the New Jersey redistricting plan, the legislature argued that the deviation of the plan was justified to protect black urban neighborhoods from being divided into different districts. In addition, the legislature contended that the deviation was less than the predictable undercount in the census figures. In answer to the first assertion, the plaintiffs failed to convince the Court that the population differences were essential to preserve minority voting strength in the congressional plan. The Court further identified legislative policies which, when applied in a nondiscriminatory manner, might have been successfully used in defense of the New Jersey congressional plan, including: compactness, respect for municipal boundaries, preserving the core of prior districts, and avoiding contests between incumbents.

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Earl S. Mackey, Executive Director

With regard to the margin of error in the census data, the Court held that the census count "provides the only reliable--albeit less than perfect--indication of the districts' 'real' relative population levels, and furnishes the only basis for good faith attempts to achieve population equality." In the Court's opinion, Justice Brennan wrote: "Adopting any standard other than population equality, using the best census data available would subtly erode the Constitution's ideal of equal representation."

In a dissenting opinion, Justice White objected to the Court's rule of absolute equality on the basis that such a strict standard may be used to justify gerrymandered congressional districts. In addition, Justice White argued that the lack of a de minimis rule encourages the intrusion of federal courts into state legislative affairs. Other dissenters argued that even a miniscule population deviation is now vulnerable to constitutional attack.

Eleven states currently have congressional district maps with an overall population range greater than that of New Jersey: Alabama (2.45%), Arkansas (0.78%), Georgia (2.00%), Indiana (2.96%), Kentucky (1.39%), Massachusetts (1.09%), New Mexico (0.87%), New York (1.64%), North Carolina (1.76%), Tennessee (2.40%),and Virginia (1.81%). Although the Court's decision has no effect on the validity of these 11 plans, one state is currently involved in litigation to resolve the constitutionality of population deviation. In Ohio, a three-judge federal panel has been awaiting a decision on the New Jersey case before making a final decision in Flanagan, et al. v. Gillmor, et al..

On July 5, just two weeks after the New Jersey decision, the Pennsylvania congressional redistricting case, In Re: Pennsylvania Congressional Districts Reapportionment Cases, was decided by the U.S. Supreme Court. In a six-to-three vote, the Supreme Court affirmed the three-judge federal panel which had upheld the congressional plan drawn by the Pennsylvania legislature last year. The plaintiffs challenged the plan's overall population range of .24 percent.

## *WYOMING LEGISLATIVE REAPPORTIONMENT PLAN UPHELD BY U.S. SUPREME COURT*

The U.S. Supreme Court has always held the states to less stringent standards of population equality in legislative reapportionment than congressional redistricting. The decisions made by the U.S. Supreme Court on June 22 prove to be no exception. On the same day the New Jersey congressional case was decided, the High Court ruled in Brown v. Thomson that the Wyoming legislative reapportionment plan, with an overall population range of 89 percent, was constitutional in light of the state's policy of allowing every county its own representation. Under the state constitution, Wyoming's 23 counties are required to have a senator and a representative in each district "apportioned among the counties as nearly as may be according to the number of their inhabitants." The plan included one small county with a population less than one-half the state's ideal district size.

The ultimate question before the Court was the state policy of granting a representative to each county. The Court held that the policy was rational and even "well-suited to the special needs" of the sparsely populated state. Justice O'Connor, in a concurring opinion, emphasized that ensuring equal representation is not simply a mathematical problem. The Court's decision rested on the narrow appeal which was brought before it. If the entire legislative plan had been challenged, rather than the representation of one county, the Court's decision might have been very different.

## *STATE NOTES*

In ALABAMA, new state legislative elections will be held this fall as a result of the April 11th federal court decision in Burton, et al. v. Hobbie, et al. On June 21, a suit was filed petitioning the federal court for an order to require the governor to call the primary election. The Alabama Democratic Party Executive Committee will nominate all 140 state legislative candidates if the governor does not call for a primary. The plaintiffs in the suit, Bogard, et al. v. Hobbie, et al. (C.A. 83-I-604-N), claim that the executive committee is malapportioned by population and by race. They also question whether Section 5 preclearance provisions under the Voting Rights Act apply to the special elections as mandated by the Burton decision.

CALIFORNIA Governor Deukmejian has called a special election for December 13 on an initiative which recently qualified for the ballot and which would repeal the existing reapportionment and redistricting plans in favor of one drawn by an independent contractor for Assemblyman Sebastiani. Controversy over this proposal reportedly crosses party lines. However, if adopted, the Sebastiani plans could change dramatically the political makeup of both the congressional delegation and the California legislature.

In addition, the California legislature has intervened in the Vadham v. Eu case which was filed in federal court this spring. The suit contests the congressional plan signed into law on January 2, by Governor Jerry Brown, on the basis that it violates constitutional requirements of one-person, one-vote. A dispute has arisen over the authority of the secretary of state to make technical adjustments to the plan to compensate for an 8,000-person census correction. California and several states have reapportionment statutes which allow the secretary of state to make necessary corrections as a result of final population figures provided by the U.S. Bureau of the Census or as a result of minor local election district problems. The plaintiffs contend that the secretary of state does not have the constitutional authority to make these corrections and that the congressional plan must be judged as originally drawn by the legislature. The legislature argues that under state law the plan must be judged as corrected. The Ninth Circuit Court of Appeals has remanded the case back to district court for a trial on its merits. The legislature has been asked to respond.

The HAWAII congressional redistricting and legislative reapportionment plans were reviewed by the federal court on June 17. At the request of the League of Women Voters, the court, which maintained jurisdiction over the plans under the case Travis, et al. v. King, et al., reviewed the master plan and

decided that the districting plans were merely interim. Consequently, the state now has the responsibility to devise a new plan. The same commission has been reformulated with many of the same staff people available to assist. New plans should be complete by December of this year.

On June 7, the IDAHO State Supreme Court remanded Hellar, et al. v. Cenarrusa, et al. back to state district court for trial on the issue of county boundary splits. Last year the case was appealed to the state supreme court after the district court upheld the legislature's reapportionment plan as an interim plan for the 1982 elections. The plaintiffs filed the case based on the fact that the state constitution forbids county boundary lines from being split in reapportionment. Defendants argue that the splits were necessary to comply with federal constitutional requirements. The trial is scheduled to begin July 26, but a delay in the proceedings is expected. An election this year under a new legislative reapportionment plan is highly unlikely.

The LOUISIANA case of Major v Treen is still undecided. On March 7, the three-judge federal panel heard the case which challenges the plan on the issue of minority representation.

In MONTANA, a hearing is scheduled for August 10 and 11 in the case of McBride, et al. v. Waltermire (Docket No. CZ-83-25-BU) filed in the U.S. District Court of Montana, Butte Division. The case challenges the state's legislative reapportionment plan on the issues of population equality and violation by the reapportionment commission of its own criteria including: communities of interest, county boundary splits, compactness, and contiguity. The Manning v. Montana Districting and Apportionment Commission has been dismissed. The suit was originally brought to prevent filing of the redistricting and reapportionment plans with the secretary of state. Since the plans have been filed, the federal court dismissed the case as moot.

In SOUTH CAROLINA, the new Senate redistricting plan has been in conference committee for the last several weeks. The legislature is expected to end its session sine die on July 27 and a resolution will be required for a special session to continue work on the Senate plan. The overall population range of the plan is 9.8 percent.

The TEXAS legislature has redrawn the congressional and legislative reapportionment plans. The overall population range for the congressional plan is .28 percent. The population deviation in the House plan is 9.95 percent and in the Senate is 1.81 percent. All three plans are pending approval from the Department of Justice and from the federal court under the case of Terrazas v. Clements. During this session, the Senate passed a resolution authorizing the attorney general to make changes in the Senate plan if the Department of Justice does not drop its objections. The Senate basically accepted the interim Senate plan ordered by the federal court after initial department objections coincided with court action.

WISCONSIN Governor Anthony Earl signed the new legislative redistricting plan into law on July 15, after having vetoed a similar plan passed with the Wisconsin budget bill just two weeks earlier. The overall population range of the Assembly is 1.73 percent, and the population deviation for the Senate

is 1.05 percent. There are rumors of possible court challenges to this latest reapportionment plan, but nothing has been filed to date.

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Material for this edition prepared by Candace L. Romig, NCSL

SUMMARY OF STATE LITIGATION ON
CONGRESSIONAL REDISTRICTING AND LEGISLATIVE REAPPORTIONMENT

| State | Court Case | Issues | Status |
|---|---|---|---|
| Alabama | Burton v. Hobbie<br>Federal Court<br>(L - 11/5/81) | • Malapportionment<br>• Population equality<br>• Dilution of minority voting strength | U.S. Supreme Court affirmed plan drawn by legislature. (83) |
| | Boozard v. Hobbie<br>Federal Court<br>(L - 6/21/83) | • Petition to require governor to call primary<br>• Determine if election subject to Sec. 5 preclearance of Voting Rights Act | Pending trial |
| Alaska | None | | |
| Arizona | Hamilton v. Babbitt<br>Federal Court<br>(C, L - 12/13/81) | • Gerrymandering<br>• Violation of due process<br>• Dilution of minority voting strength | Federal court approved corrected legislative plan per settlement agreement. (4/12/82) |
| Arkansas | Doulin v. White<br>Federal Court<br>(C) | • Population equality and deviation | Federal court orders court plan. (2/25/82) |
| | Bizzell v. White<br>Wells v. White<br>State Supreme Court<br>(L - 10/5/81) | • Gerrymandering | State Supreme Court dismissed. (11/2/81) |
| California | Brown v. Deukmejian<br>State Supreme Court<br>(C, L - 10/25/81) | • Challenges 3 initiatives to prevent plans from going into effect | State Supreme Court upholds all 3 initiatives. (1/28/82) |
| | Vadham v. Eu<br>Federal Court<br>(C - 2/83) | • Population deviation<br>• Authority of Secretary of State to make technical corrections to plan | Court of Appeals orders federal court to proceed on the merits of the case. (7/11/83) |
| | Richardson v. Eu<br>Federal Court<br>(L - 2/82) | • Numbering of Senate districts with regard to staggered terms | Federal Court dismissed case. (10/18/82) |
| | Chavez v. Eu<br>Federal Court<br>(L) | • Numbering of Senate districts with regard to staggered terms | Federal Court dismissed case. (5/82) |
| | Mallowell v. Eu<br>Federal Court<br>(L - 2/82) | • Malapportionment | Pending trial |
| Colorado | Carstens v. Lamm<br>Federal Court<br>(C - 10/8/81) | • Proposed to break stalemate through judicial intervention | Federal Court orders court plan. (1/25/82) |
| | Kallenburger v. Buchanan<br>State District Court<br>(L - 6/82) | • Vacancy election<br>• Deferred vote of electorate | State Supreme Court orders election to be held using 1982 senatorial boundary. (9/82) |

| State | Court Case | Issues | Status |
|---|---|---|---|
| Connecticut | Logan v. O'Neill<br>State Superior Court<br>(C, L - 10/81) | • Municipal boundary splits<br>• Constitutionality of backup commission<br>• Method of devising districts | State Supreme Court upheld plans. (8/3/82) |
| Delaware | None | | |
| Florida | Bucniconti v. Firestone<br>Federal Court<br>(C) | • To stop Secretary of State from conducting elections<br>• Sought redistricting deadline of 3/29, after which court to enact plan | Federal Court dismissed case. (6/28/82) |
| | Clem v. Haben<br>Federal Court<br>(C - 6/23/82) | • County and municipal boundary splits | Federal Court upheld plan. (9/3/82) |
| | In re Apportionment Law<br>(SJR 1E)<br>414 So. 2d 1040 (1982)<br>(L) | | State Supreme Court reviewed plan as provided by law. |
| Georgia | Busbee v. Smith<br>Federal Court<br>(C) | • Contested objection by Department of Justice | Federal Court upheld Justice objection (7/22/82); approves plan (8/24/82). |
| Hawaii | Travis v. King<br>Federal Court<br>(C, L) | • Malapportionment<br>• Gerrymandering<br>• Registered voter population base used as formula | Federal Court approved masters' plan [illegible]; state directed to draw new plan (6/17/82). |
| Idaho | Budge v. Cenarrusa<br>Federal Court<br>(L - 3/82) | • Proposed to break stalemate through judicial intervention | Federal Court dismissed after legislature and governor agreed on plan. |
| | Miller v. Cenarrusa<br>State District Court<br>(L - 5/82) | • County boundary splits<br>• Request to enjoin general election | Supreme Court remands case to district court to try case on merits. (6/7/83) |
| Illinois | In Re Illinois Congressional Districts Reapportionment Cases Federal Court<br>(C - 7/1/81) | • Congressional redistricting not complete | U.S. Supreme Court affirmed court plan (1/11/82) |
| | Schrage and Wolf v. State Board of Elections<br>State Supreme Court<br>(L - 10/19/81) | • Violation of compactness criteria of state constitution<br>• Petition court to approve plan | State Supreme Court upheld map with changes to conform to compactness criteria |
| | Rybicki v. State Board of Elections<br>State Supreme Court<br>(L - 10/27/81) | • Dilution of minority voting strength<br>• Municipal and county boundary splits | State Supreme Court approves commission plan as amended with regard to population variance (1/12/82); amended to conform to 1982 amendments to Voting Rights Act (1/21/83). |
| Indiana | Orr v. Baldridge<br>Federal Court<br>(C - 5/6/81) | • Challenges census procedures resulting in the loss of one congressional seat | Pending decision |

| State | Court Case | Issues | Status |
|---|---|---|---|
| Indiana | Sandemer v. Davis<br>Federal Court<br>(L - 1/12/82) | • Political gerrymandering<br>• Request injunction to prevent plan from going into effect<br>• Dilution of minority voting strength in multimember districts<br>• Incongruent legislative and congressional districts<br>• Districts inconsistent with communities of interest | Pending trial |
| | Garton v. O'Bannon<br>Federal Court<br>(L) | | Federal Court dismissed case. (8/24/81) |
| Iowa | None | | |
| Kansas | O'Sullivan v. Brier<br>Federal Court<br>(C - 4/23/82) | • Requests court to draw plan | Federal Court ordered court plan. |
| Kentucky | None | | |
| Louisiana | Major v. Treen<br>Federal Court<br>(C, L - 3/25/82) | • Dilution of minority voting strength | Pending decision |
| Maine | None | | |
| Maryland | Wiser v. Hughes<br>State Court of Appeals<br>(L - 3/3/82) | • Communities of interest<br>• Natural boundaries<br>• Political boundaries<br>• Compactness<br>• Dilution of minority voting strength<br>• Partisan gerrymandering | State Court of Appeals upheld enacted plan (6/4/82) U.S. Supreme Court refused to hear case for want of substantial federal question. |
| Massachusetts | None | | |
| Michigan | Apperstrand v. Austin<br>Federal Court<br>(C) | • Violation of one-person, one-vote because new districts not drawn | Federal Court ordered court plan. (5/24/82) |
| | In Re Apportionment of State Legislatures<br>State Supreme Court<br>(L - 1/82) | • Requests court to assume jurisdiction for reapportionment | State Supreme Court declared reapportionment statutes unconstitutional (3/25/82); interim plan approved as drawn by special master (5/21/82); U.S. Supreme Court refuses to hear case (10/12/82). |
| Minnesota | Orwoll v. Lacomb and Growe<br>U.S. Supreme Court<br>(C) | • Challenge to court plan on basis lower court exceeded its authority in drawing plans ignoring overriding state policy | U.S. Supreme Court affirms court plan (5/13/82) |
| | Lacomb v. Growe<br>Federal Court<br>(C, L - 3/25/81 | • Requests deadlines for redistricting and reapportionment | Federal Court ordered court plans. (3/11/82) |
| Mississippi | Mississippi v. Smith<br>Federal Court<br>(C - 4/7/82) | • Contested objection by Department of Justice | Federal Court upheld department's objection. (8/28/82) |

| State | Court Case | Issues | Status |
|---|---|---|---|
| Mississippi | Brooks v. Winter<br>Federal Court<br>(C) | • Requests judicial intervention in redistricting<br>• Delay of primary election<br>• Dilution of minority voting strength | Federal Court ordered court plan (6/8/82); U.S. Supreme Court remanded case to federal court for reconsideration under Sec. 2 of the Voting Rights Act (5/16/83). |
| Missouri | Schatzle v. Kirkpatrick<br>Federal Court<br>(C) | • Requests court to assume jurisdiction over redistricting process | U.S. Supreme Court affirmed court plan (6/17/82) |
| Montana | Manning v. Montana Districting and Apportionment Commission State Supreme Court<br>(C, L - 12/22/82) | • Requests injunction on commission plan<br>• Challenges the constitutionality of the commission: reapportionment should be done by legislators | State Supreme Court dismissed case as moot. (4/7/83) |
| | McBride v. Waltermire<br>Federal Court<br>(L - 3/11/83) | • Population deviation<br>• Violation by commission of its own criteria, i.e. maintenance of communities of interest, county boundaries, compactness, contiguity | Pending trial August 10, 1983 |
| Nebraska | None | | |
| Nevada | None | | |
| New Hampshire | Gover v. Gardner<br>Federal Court<br>(L - 5/17/82) | • Challenge to House plan | Federal Court upheld enacted House plan and appeal dismissed. (8/27/82) |
| New Jersey | Karcher v. Daggett<br>Federal Court<br>(C) | • Population deviation<br>• Legislative procedure | U.S. Supreme Court declares plan unconstitutional. (6/22/83) |
| New Mexico | Sanchez v. King<br>Federal Court<br>(L - 1/82) | • Dilution of minority voting strength<br>• Compactness<br>• Contiguity<br>• Court to assume jurisdiction | Federal panel declares eligible voter population case unconstitutional and postpones primary (4/2/82); U.S. Supreme Court reinstates primary for nonlegislative candidates (4/23/82) Pending hearing by federal panel on unresolved issues. |
| | Apodaca v. King<br>State Supreme Court<br>(L - 7/6/82) | • One senator's term regarding 1982 elections | State Supreme Court ruled senator didn't have to run. (8/82) |
| New York | Flateau v. Anderson<br>Federal Court<br>(C, L - 2/82) | • Population deviation<br>• Dilution of minority voting strength<br>• Violation of the Voting Rights Act | Federal Court approves plans accepted by the legislature. (7/8/82) |
| | Bay Ridge Community Council v. Carey<br>State Supreme Court<br>(L - 8/25/82) | • Violation of state constitution on basis of compactness, contiguity, and convenience.<br>• Request to enjoin state from holding elections | State Supreme Court declares plan unconstitutional (8/31/82); case appealed to the Court of Appeals: |

| State | Court Case | Issues | Status |
|---|---|---|---|
| New York | Bay Ridge (cont.) | • County boundary splits<br>• Dilution of minority voting strength<br>• Violation of communities of interest<br>• Political gerrymandering | case transferred to the Appellate Division (1/13/83). |
| | Montano v. Carey<br>Federal Court<br>(L - 6/17/82) | • Incorporated allegations set out in Plateau<br>• Improper interference with election schedule<br>• Violation of the Voting Rights Act | Federal Court upheld plan (7/7/82); U.S. Supreme Court denied stay of order (7/23/82); Federal Court ordered action discontinued because moot (1/13/83). |
| | Mirrione v. Anderson<br>Federal Court<br>(L - 11/12/82) | • Dilution of minority voting strength<br>• Violation of Voting Rights Act<br>• Alleged that legislators acted contrary to their responsibility to constituents costing taxpayers under expense<br>• Protection of communities of interest | Federal Court dismissed case (12/3/82); pending decision of U.S. Court of Appeals (4/27/83). |
| North Carolina | Gingles v. Edmisten<br>Federal Court<br>(C, L) | • Population deviation<br>• Dilution of minority voting strength<br>• County boundary splits<br>• Single-member districts | Federal Court cross congressional charges (5/82); pending trial in summer of 1983. |
| North Dakota | None | | |
| Ohio | Flanagan v. Gillmor<br>Federal Court<br>(C) | • Requests court to assume jurisdiction for redistricting<br>• Population deviation<br>• Dilution of minority voting strength<br>• Political gerrymandering | Federal panel: all charges dismissed except population deviation pending decision in New Jersey case (8/25/82); case still pending. |
| | Laurence v. Rhodes<br>Federal Court<br>(L - 9/10/81) | • Requests injunction for plan because it gerrymandered against Republicans | Federal Court: suit dropped. |
| Oklahoma | None | | |
| Oregon | Caroo v. Paulus<br>State Supreme Court<br>(L - 10/80) | • All senators to be elected in 1982<br>• Municipal boundary splits<br>• Authority of Secretary of State to assign senators to specific districts challenged | State Supreme Court declares plan unconstitutional (9/23/81); court upholds Secretary of State's plan (10/27/81). |
| Pennsylvania | In Re: Pennsylvania Congressional Districts Reapportionment Cases<br>Federal Court<br>(C - 2/15/82) | • Alleges congressional plan is unconstitutional<br>• Requests court to delay primary<br>• Population deviation<br>• Requests court to assume jurisdiction | U.S. Supreme Court affirms 3-judge federal panel which affirmed plan drawn by legislature. (7/6/83) |
| | Hispanic Coalition on Reapportionment v. Legislative Reapportionment Commission<br>Federal Court<br>(L - 1/28/82) | • Dilution of minority voting strength | U.S. Supreme Court upheld commission plan. (2/24/82) |

| State | Court Case | Issues | Status |
|---|---|---|---|
| Rhode Island | Licht v. State of Rhode Island and Providence Plantations State Superior Court (L - 4/82) | • Challenges validity of Senate plan | State Superior Court ordered legislature to redraw plan. (6/3/82) |
| | Holmes v. State of Rhode Island State Superior Court (L - 4/82) | • Challenges validity of House plan | State Superior Court upheld House plan. (10/29/82) |
| | Farnum v. State of Rhode Island Federal Court (L - 8/7/82) | • Challenges 1974 Senate District lines imposed for 1982 elections by legislature | Federal Court declares 1974 Senate districts invalid. (1/10/83) |
| South Carolina | NAACP v. Riley Federal Court (C - 10/14/81) | • Denial of equal protection under the law<br>• Dilution of minority voting strength<br>• Violation of Voting Rights Act<br>• Population deviation<br>• Failure of legislature to complete redistricting | Federal court ordered plan proposed by the House implemented with minor [illegible] (3/8/82); U.S. Supreme Court upheld the court plan (11/23/82). |
| South Dakota | O'Connor v. Kundert Federal Court (L - 7/2/81) | • Multi-member districts | Federal Court dismissed case as moot due to adoption of single-member district plan. (1/7/82) |
| | Twinnereim v. Kundert State Supreme Court (L - 7/29/81) | • County boundary splits | State Supreme Court refused to hear the case. (8/14/81) |
| Tennessee | Lockert v. Crowell State District Court (L) | • County boundary splits in Senate plan | State Supreme Court overturned lower court decision and upheld Senate plan. (3/30/82) |
| Texas | Seamon v. Clements Federal Court (C) | • Dilution of minority voting strength | Federal Court ordered an interim plan for 1982 elections. (2/27/82) |
| | Terrazas v. Clements Federal Court (L) | • Dilution of minority voting strength<br>• Population deviation<br>• Disruption of the election process<br>• Violation of Voting Rights Act | Federal Court redrew legislative plan for 1982 elections. (3/5/82) |
| Utah | Dmitrich v. Monson State Supreme Court (L - 1/29/82) | • Representation in districts with holdover senators | State Supreme Court rejected motion. |
| | Rawson and Wiese v. State of Utah State District Court (L) | • Provisions regarding holdover senators | District court granted summary judgment and dismissed case. (4/82) |
| Vermont | Petition for Review of Apportionment Bill State Supreme Court (L) | • County and municipal boundary splits | State Supreme Court dismissed cases. (5/17/82) |

| State | Court Case | Issues | Status |
|---|---|---|---|
| Virginia | Cosner v. Dalton<br>Federal Court<br>(L) | • Contest House plan in nine cases<br>• Dilution of minority voting strength<br>• County boundary splits<br>• Population deviation | Federal Court declared House plan unconstitutional, orders elections to be held 1981, 1982, 1983 (8/28/81); court upheld House plan as redrawn (8/21/82). |
| | Cline v. Robb<br>Federal Court<br>(L) | • Suit brought on behalf of counties who objected to being split into single-member districts in the House | Federal Court upheld House plan. (9/10/82) |
| Washington | Doch v. Munro<br>Federal Court<br>(C) | • Population deviation<br>• Violation of criterion of communities of interest | Federal Court declared plan unconstitutional because of population deviation. (11/82) |
| | Republican State Committee and Dunn v. Munro<br>Federal Court<br>(C, L - 6/18/81) | • Plaintiffs asked for advisory opinion issuing a declaratory judgment upholding the constitutionality of the legislative plan | Case settled out of court. (1/82) |
| West Virginia | Brookover v. Manchin<br>Federal Court<br>(C) | • Requests court to compel legislature to complete redistricting | Federal Court approved plan drawn by legislature. (2/22/82) |
| | Moses v. Rockefeller<br>Federal Court<br>(L - 2/4/82) | • Requested court to require legislature to draw plan<br>• Violation of population equality requirements | Federal Court accepted enacted plan. (3/25/82) |
| Wisconsin | AFL-CIO v. State Elections Board<br>Federal Court<br>(C, L) | • Present apportionment is unconstitutional<br>• Request that court enjoin elections until valid plans are in effect | Federal Court ordered a court plan with minor corrections until valid constitutional plan enacted by law. (6/17/82)<br>Congressional plan challenge dismissed April 2, 1982. |
| Wyoming | Brown v. Thomson<br>Federal Court<br>(L - 10/2/81) | • Dilution of voter strength<br>• Population deviation | U.S. Supreme Court upheld legislative plan. (6/22/83) |

C - Challenge to congressional plan.
L - Challenge to legislative plan.

Dates in parentheses with challenge designation signifies when case was initially filed.

Prepared by the National Conference of State Legislatures, July 22, 1983.

# ALASKA LEGISLATIVE COUNCIL

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# LEGISLATIVE APPORTIONMENT

# IN ALASKA

## Historical and Future Considerations

NOVEMBER 1966

# LEGISLATIVE APPORTIONMENT

# IN ALASKA

## Historical and Future Considerations

Prepared by the

LEGISLATIVE AFFAIRS AGENCY

Fifth State Legislature

November 1966

Alaska Legislative Council
Legislative Affairs Agency

Pouch Y, State Capitol
Juneau, Alaska

# FOREWORD

Senate Concurrent Resolution No. 39 was passed by the last legislature because the Superior Court, on April 11, 1966, in Nolan et al v. Wade,/1 directed that a constitutional convention be held or constitutional amendments be proposed by the legislature and ratified by the people before December 1, 1967, the amendment to provide for a valid reapportionment of the state Senate in conformity with the rulings of the U.S. Supreme Court. The resolution directed the Legislative Council to gather "information on all facets of the matter of legislative reapportionment to the end that the 1967 session of the legislature may have all the necessary data and alternatives on hand for consideration when preparing amendments to the state constitution regarding legislative apportionment" in conformity with the opinion in Nolan et al v. Wade.

Nolan et al v. Wade was appealed to the state Supreme Court and, as will be discussed in detail in this study, the Supreme Court almost entirely overturned the decision of the Superior Court. The Supreme Court declared the Governor's Proclamation of Reapportionment and Redistricting valid and the 1966 elections have been held under that proclamation. Therefore, the stated purpose for SCR 39 no longer exists since there is no need for a constitutional amendment by December 1, 1967. As a consequence, it was questionable whether the staff should proceed with this study. It was concluded that reapportionment will conti to be of interest to the legislature since the constitut will eventually have to be amended to conform to the fede and state decisions even though it need not be done in 19t

This study will cover the history of legislative apportionment in Alaska from the Organic Act of 1912 through the November 1966 elections, the federal and state cases on reapportionment, and possibilities for future action on this subject.

John C. Doyle
Executive Director

Juneau, Alaska
November 1967

/1 Memorandum Opinion, Civil Action No. 66-30 Superior Court for the State of Alaska, First Judicial District

TABLE OF CONTENTS

FOREWORD

I. HISTORY OF LEGISLATIVE APPORTIONMENT IN ALASKA . . . . . 1

II. IMPORTANT APPORTIONMENT CASES IN THE U.S. SUPREME COURT . . . . . 5

III. APPORTIONMENT CASES IN ALASKA . . . . . 13

IV. POSSIBLE DEVIATIONS FROM SUPREME COURT RULE "ONE MAN, ONE VOTE" . . . . . 15

V. CONSIDERATIONS FOR CONSTITUTIONAL CHANGES . . . . . 23

VI. SCHEDULE FACTORS IN PROPOSING AND ADOPTING CONSTITUTIONAL CHANGES IN LEGISLATIVE APPORTIONMENT . . . . . 26

APPENDICES

# I. HISTORY OF LEGISLATIVE APPORTIONMENT IN ALASKA/1

The Territory of Alaska was first given legislative authority of its own in 1912 in the Organic Act of 1912 (37 Stat. 513). This Act provided for a bicameral legislature consisting of a House of Representatives of sixteen members and a Senate of eight members. For thirty-two years two senators and four representatives were elected at-large from the four judicial divisions into which the territory was divided, and the remaining seats were divided equally among the four divisions. By a 1942 amendment to the Organic Act (56 Stat. 1016), effective for the election of 1944, the Senate was increased to a membership of sixteen and the house to a membership of 24, the latter apportioned on the basis of estimated civilian population. The 1942 Act also provided for reapportionment of seats by the United States Director of the Census after the 1950 decennial census, and the territorial legislature was authorized to provide for legislative districting within the judicial divisions.

In 1951 the director of the census reapportioned the House seats on the basis of the civilian population reported in the 1950 census, with the following results:

| Judicial Division | Apportionment 1944 - 1951 | Apportionment 1952 - 1958 |
|---|---|---|
| First | 8 | 6 |
| Second | 4 | 3 |
| Third | 7 | 10 |
| Fourth | 5 | 5 |
| | 24 | 24 |

The apportionment and districting for the election of fifty-five delegates to the constitutional convention of 1955-1956 anticipated the provisions of the Alaska constitution on that point. The twenty-two election districts were of three types:

(1) The seventeen one-member districts were based on existing districts or combinations of those districts.

(2) Each of the four judicial divisions constituted a multimember district, as follows: First Division 7; Second Division 4; Third Division 12; and Fourth Division 8.

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/1 "Reapportionment" by Robert B. McKay, 1965

(3) The territory as a whole constituted one district from which seven delegates-at-large were elected.

Alaska was admitted to statehood by proclamation dated January 3, 1959, on the basis of the constitution drafted in the 1955 constitutional convention. Under the constitution the Alaska legislature was divided into a House of Representatives of forty members and a senate of twenty. /2 Reapportionment is an executive function to be performed by the governor immediately following each United States decennial census. /3 The governor can appoint a reapportionment board of five members to act in an advisory capacity, which must include one member from each of the four senate districts. /4 The board must submit a report to the governor within ninety days following the official reporting of each census, and the governor must, by proclamation, reapportion or redistrict within ninety days thereafter. /5 Any qualified voter may apply to the Superior Court to compel the governor "by mandamus or otherwise" to perform his reapportionment duties. /6

Under the constitution, apportionment of the House is primarily by population. "Reapportionment shall be by the method of equal proportions." /7 Originally the state was divided into twenty-four election districts. /8 Then the total civilian population was divided by forty and "each election district having the major fraction of the quotient obtained" was allotted one representative. /9 If "the total civilian population of any election district falls below one-half of the quotient," provision is made for attaching the district to another election district "within its senate district, and the reapportionment for the new district shall be determined as provided in Section 4 of this article." /10 After publication of the 1960 census results, the governor accepted the recommendations of his advisory board on apportionment and reduced the number of districts to nineteen, thereby meeting more nearly the population standard fixed in Article VI, Section 4.

Apportionment of the Senate is a combination of area and population, with the emphasis on area. The state was

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/2 Alaska Constitution, Art. II, Sec. 1
/3 Ibid., Art. VI, Sec. 3
/4 Ibid., Art. VI, Sec. 8
/5 Ibid., Art. VI, Sec. 10
/6 Ibid., Art. VI, Sec. 11
/7 Ibid., Art. VI, Sec. 4
/8 Ibid., Art. XIV, Sec. 1
/9 Ibid., Art. VI, Sec. 4
/10 Ibid., Art. VI, Sec. 5

originally divided into sixteen senate districts, /11 which were continued in the 1961 reapportionment.

The governor is allowed to change the size and area of election districts, but each district must "be formed of contiguous and compact territory containing as nearly as practical a relatively integrated socio-economic area. Each shall contain a population at least equal to the quotient obtained by dividing the total civilian population by forty. Consideration may be given to local government boundaries. Drainage and other geographic features shall be used in describing boundaries wherever possible." /12 Senate districts may be modified to reflect changes in election districts. /13

The report of the commitee on suffrage, elections, and apportionment to the Alaska Constitutional Convention stated in a letter of December 17, 1955, to the president of the convention that "These (election) districts are economic units of the Territory and may be compared in a sense to Swiss cantons. Their boundaries are watersheds wherever possible; waterways and steamship routes are not used as boundaries, but are considered as highways piercing valleys."

In view of the 1964 U.S. Supreme Court decisions discussed later in this study, it was obvious that Alaska must reapportion its state Senate. There was a population disparity of nineteen to one in the Senate and 2.5 to one in the House. In August 1964 the state attorney general advised the governor that he had authority to reapportion the state Senate. The governor then called the Advisory Reapportionment Board into session. That board submitted its report to the governor in September 1964. In March 1965 the governor reconvened the board for additional study and it submitted its second report to the governor on June 4, 1965. /14 On September 3, 1965, the governor issued a "Proclamation of Reapportionment and Redistricting" /15 which reapportioned the state Senate, to be effective for the 1966 election. The new reapportionment plan was designed to satisfy the equal-population principle. Each of the eleven senate districts (composed of one to two election districts) was given one senator except Anchorage (seven) and Fairbanks (four). No change was made in the house districts as promulgated in 1961. On February 21, 1966, fifteen state senators applied to the

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/11 Ibid., Art. XIV, Sec. 2
/12 Ibid., Art. VI, Sec. 6
/13 Ibid., Art. VI, Sec. 7
/14 Appendix "A"
/15 Appendix "B"

Superior Court for the First Judicial District in Juneau for a permanent injunction to prohibit the secretary of state from conducting an election under the governor's proclamation. Both sides eventually moved for a summary judgment and they agreed that Section 2, Article XIV of the Alaska Constitution was invalid under the equal protection clause of the Fourteenth Amendment of the Constitution of the United States. The basic issue was the validity of the governor's Proclamation of Reapportionment and Redistricting.

On April 18, 1966, the Superior Court declared the governor's proclamation null and void. The court retained jurisdiction, providing that if a valid constitutional amendment modifying the state Senate apportionment was not adopted by December 1, 1967, the court would issue the necessary orders to insure that the 1968 election would be held under an apportionment plan consistent with the decisions of the U.S. Supreme Court.

The case was appealed to the Alaska Supreme Court which held that the governor and the reapportionment board had implied power under the constitution to reapportion the Senate on an interim basis. The validity of the reapportionment plan set out in the proclamation was not questioned with respect to the requirements of the equal protection clause of the Fourteenth Amendment so the court did not discuss that matter. The court delcared the governor's reapportionment plan effective for the 1966 elections and "thereafter until the Alaska Constitution has been amended to provide a valid, permanent reapportionment plan for the Senate."

The 1966 elections have been held under the governor's proclamation as decreed by the state Supreme Court. The legislature may now wish to prepare consitutional amendments relating to reapportionment of the legislature or have a constitutional convention consider this problem. Scheduling factors in proposing and adopting constitutional changes are discussed in part VI of this study.

## II. IMPORTANT APPORTIONMENT CASES IN THE U. S. SUPREME COURT

BAKER v. CARR, 369 U.S. 186 (1962)

> "This civil action was brought under 42 U.S.C. secs. 1983 and 1988 to redress the alleged deprivation of federal constitutional rights. The complaint, alleging that by means of a 1901 statute of Tennessee apportioning the members of the General Assembly among the State's 95 counties, 'these plaintiffs and others similarly situated, are denied the equal protection of the laws accorded them by the Fourteenth Amendment to the Constitution of the United States by virtue of the debasement of their votes' was dismissed by a three-judge court convened under 28 U.S.C. sec. 2281 in the Middle District of Tennessee. The court held it lacked jurisdiction of the subject matter and also that no claim was stated upon which relief could be granted. 179 F.Supp. 824. We noted probable jurisdiction of the appeal. 364 U.S. 898. We hold that the dismissal was error, and remand the cause to the District Court for trial and further proceedings consistent with this opinion." 369 U.S. at 187.

The court held only "(a) that the court possessed jurisdiction of the subject matter; (b) that a justiciable cause of action is stated upon which appellants would be entitled to appropriate relief; and (c) because appellees raise the issue before this court, that the appellants have standing to challenge the Tennessee apportionment statutes."

The court goes on to discuss at considerable length the factors which went into the determination of these three matters. In discussing the "justiciability" of the question presented, the court said:

> "We understand the District Court to have read the cited cases as compelling the conclusion that since the appellants sought to have a legislative apportionment held unconstitutional, their suit presented a 'political question' and was therefore nonjusticiable. We hold that this challenge to an apportionment presents no nonjusticiable 'political question.' The cited cases do not hold the contrary."

WESBERRY v. SANDERS, 376 U.S. 1 (1964)

This case, while dealing with state establishment of districts for the election of representatives to the federal Congress, contains a worthwhile discussion of the history of the Great Compromise, by which agreement was reached on having the population represented in one house and the states represented in the other. This matter is important because of the argument which the Supreme Court subsequently makes that the "Federal analogy" is false as applied to state legislatures.

REYNOLDS v. SIMS, 377 U.S. 533 (1964)

> "On August 26, 1961, the original plaintiffs...filed a complaint in their own behalf and on behalf of all similarly situated Alabama voters, challenging the apportionment of the Alabama legislature.... The complaint alleged a deprivation of rights under the Alabama Constitution and under the Equal Protection Clause of the Fourteenth Amendment, and asserted that the District Court had jurisdiction under provisions of the Civil Rights Act, 42 U.S.C. secs. 1983, 1988, as well as under 28 U.S.C. sec. 1343(3)." 32 LW at 4535.
>
> "Plaintiffs below alleged that the last apportionment of the Alabama Legislature was based on the 1900 federal census, despite the requirement of the State Constitution that the legislature be reapportioned decennially. They asserted that, since the population growth in the State from 1900 to 1960 had been uneven, Jefferson and other counties were now victims of serious discrimination with respect to the allocation of legislative representation. As a result of the failure of the legislature to reapportion itself, plaintiffs asserted, they were denied 'equal suffrage in free and equal elections...and the equal protection of the laws' in violation of the Alabama Constitution and the Fourteenth Amendment to the Federal Constitution." 32 LW at 4536.

They showed that the history of the situation clearly demonstrated that there was no relief available to them except through the District Court. Plaintiffs sought a declaration of the unconstitutionality of the existing apportionment, an injunction against the holding of further elections without reapportionment, and a mandatory injunction requiring that the 1962 elections be held at large.

The District Court initially declined to stay the impending primary election in Alabama, and refrained from acting until the Alabama legislature has been given an opportunity to remedy the admitted discrepancies in the state's legislative apportionment scheme. After the Alabama legislature had failed to act effectively, the court ordered into effect a reapportionment using the best parts of two proposed plans. The District Court recognized that its own plan was only provisional, and would not be acceptable as a permanent apportionment. The District Court then retained jurisdiction while deferring a hearing in the issuance of a final injunction in order to give the provisionally reapportioned legislature an opportunity to act effectively.

Upon review, the Supreme Court approved the actions of the District Court, holding that:

> "...as a basic constitutional standard, the Equal Protection Clause requires that the seats in both houses of a bicameral state legislature must be apportioned on a population basis. Simply stated, an individual's right to vote for state legislators is unconstitutionally impaired when its weight is in a substantial fashion diluted when compared with votes of citizens living in other parts of the State."

It also found that the "federal analogy" [see Wesberry v. Sanders, supra] was inapplicable, since there has never been a question of subordinate units of state government surrendering, as did the original 13 States, a portion of their sovereignty in order "to form a more perfect Union."

The court qualified its remarks by stating that "mathematical exactness" was not required, but that a state would have to make "an honest and good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable." The court also felt that a reasonable plan for periodic reapportionment is acceptable, and specifically approved the decennial reapportionment prescribed in forty-one states.

Finally, the court remarked:

> "...legislative reapportionment is primarily a matter for legislative consideration and determination, and that judicial relief becomes appropriate only when a legislature fails to reapportion according to federal constitutional requisites in a timely fashion after having had an adequate opportunity to do so."

WMCA, INC. v. LOMENZO, 377 U.S. 633 (1964)

This action was similar in nature to that in Reynolds v. Sims, supra, and challenged the constitutional validity under the Fourteenth Amendment to the federal constitution of the apportionment of seats in the New York legislature. The District Court had initially found "want of justiciability," and dismissed the complaint. Baker v. Carr, supra, having been decided during the pendency of appeal from dismissal, the Supreme Court remanded the case for reconsideration by the District Court in the light of that opinion. The District Court subsequently dismissed the complaint on the merits, finding that the plaintiffs had not shown any invidious discrimination, that the New York Constitution's apportionment provisions were rational, that they were of historical origin and contained no improper geographical discrimination, and that the provisions could be amended by an electoral majority of the citizens of New York.

The Supreme Court, after a detailed examination of the New York scheme of apportionment, found that there was in fact an invidious discrimination against the voters in the more populous districts, as to both houses, and that there was no political remedy and remanded the case to the District Court to determine what relief was available, and when it should be made available to the plaintiffs. /16

LUCAS v. FORTY-FOURTH GENERAL ASSEMBLY OF COLORADO, 377 U.S. 713 (1964)

This case arose on appeal from a District Court decision upholding the validity of the apportionment of seats in the Colorado legislature pursuant to a constitutional amendment approved by the Colorado electorate in 1962.

The Supreme Court noted several features which rendered this case different from the other cases decided on the same date. First, at least one house of the Colorado legislature is at least arguably apportioned according to a population basis. Second, the scheme of apportionment question in the case is one which was adopted by a majority vote of the Colorado electorate at a recent date. Third, in Colorado there is an initiative to propose a constitutional amendment, which requires a percentage of the electorate to sign a petition without regard for the geographical distribution of the petitioners.

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/16 For current status of legislative reapportionment in any state, see Appendix "C".

The court found the second and third features unpersuasive as arguments for the constitutionality of the scheme. It said:

> "Except as an interim remedial procedure justifying a court in staying its hand temporarily, we find no significance in the fact that a nonjudicial, political remedy may be available for the effectuation of asserted rights to equal representation in a state legislature. Courts sit to adjudicate controversies involving alleged denials of constitutional rights. While a court sitting as a court of equity might be justified in temporarily refraining from the issuance of injunctive relief in an apportionment case in order to allow for resort to an available political remedy, such as initiative and referendum, individual constitutional rights cannot be deprived, or denied judicial effectuation, because of the existence of a nonjudicial remedy through which relief against the alleged malapportionment, which the individual voters seek, might be achieved. An individual's constitutionally protected right to cast an equally weighted vote cannot be denied even by a vote of a majority of State's electorate, if the apportionment scheme adopted by the voters fails to measure up to the requirements of the Equal Protection Clause."

The case was remanded to the District Court to determine whether the imminence of the 1964 primary and general elections required the use of one of the schemes attacked, or whether appellants' rights to cast adequately weighted votes could be effectuated in 1964. /17

MARYLAND COMMITTEE FOR FAIR REPRESENTATION v. TAWES, 377 U.S. 656 (1964)

This case arose under circumstances similar to Reynolds, supra. It adds to case law insofar as it describes the principle that the Supreme Court must of necessity consider the entire apportionment scheme of a legislature, and cannot be restricted, regardless of scope of consideration in inferior courts, to examining the apportionment in one house only. The Supreme Court further makes it clear that while it highly approves of state court attempts to deal with apportionment problems, these courts must apply federal constitutional standards.

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/17 For current status of legislative reapportionment in any state, see Appendix "C".

The court remanded the case to the Maryland Court of Appeals with instructions to ensure that election of members to the Maryland legislature in 1966 was conducted in accordance with a constitutional apportionment scheme, noting that there appeared to be adequate time for the legislature to reapportion itself. /18

DAVIS v. MANN, 377 U.S. 678 (1964)

This case arose in much the same way as Reynolds, supra. The District Court found for the plaintiffs, and declared that the challenged 1962 apportionment scheme violated the Equal Protection Clause and accordingly was void and of no effect. Defendants were enjoined from proceeding under the 1962 plan, but operation of the injunction was stayed until the general assembly could act or appeal could be taken to the Supreme Court. After a characteristic examination of the facts surrounding the particular plan of apportionment, the court found that it was violative of the federal constitution and that no adequate political remedy for the malapportionment existed. While noting that the situation in Virginia is different from that in Alabama, since the Virginia legislature has consistently reapportioned itself every ten years as required by the Virginia constitution, the court found that significant uncorrected malapportionment existed, and affirmed the decision of the District Court with the understanding that the District Court would provide plaintiffs with suitable equitable relief should the Virginia legislature itself fail to act to correct the constitutional defects before the 1965 elections. /18

ROMAN v. SINCOCK, 377 U.S. 695 (1964)

Again similar in nature to the suit in Reynolds, supra. Plaintiffs here asked the District Court for relief from malapportionment in the Delaware legislature. Relief sought included a declaration that the apportionment section of the Delaware constitution was unconstitutional, an injunction to prevent further elections from being held under it, and, alternatively, a reapportionment by the court or a direction that the November 1962 elections be held on an at-large basis.

The District Court refused to interfere with the November 1962 elections, and the legislature elected approved, in January 1963, a constitutional amendment to the legislative

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/18 For current status of legislative reapportionment in any state, see Appendix "C".

apportionment provisions of the constitution. After trial of the suit, the District Court found that the apportionment both before and after the 1963 amendment resulted in the debasement of certain votes, and gave the general assembly until October 1, 1963, to reapportion itself in accordance with the Fourteenth Amendment. The District Court, having evidence of an apparent intention on the part of state officials not to comply with its instructions, enjoined the holding of any elections under the existing plans. This injunction was stayed by a Supreme Court justice pending outcome of the appeal.

The Supreme Court reviewed the facts of the Delaware situation and found the plan in force in Delaware to be unconstitutional. It affirmed the District Court's decision, and left it up to the District Court to determine.

> "...whether it would be advisable, so as to avoid a possible disruption of state election processes and permit additional time for the Delaware Legislature to adopt a constitutionally valid apportionment scheme, to allow the 1964 election of Delaware legislators to be conducted pursuant to the provisions of the 1963 constitutional amendments, or whether those factors are insufficient to justify any further delay in the effectuation of appellants' constitutional rights." 32 LW 4588. [N.B. It appears that "appellants" in the preceding quote should read "appellees."]

The court approved the manner in which the District Court gave the Delaware legislature an opportunity to act, and its deferral of decision until after the November 1962 elections "because of the imminence of that election and the disruptive effect which its decision might have had." Taking exception to the attempt of the District Court to establish a mathematical figure by which constitutionality could be judged, the court said:

> "Rather, the proper judicial approach is to ascertain whether, under the particular circumstances existing in the individual State whose legislative apportionment is at issue, there has been a faithful adherence to a plan of population-based representation, with such minor deviations only as may occur in recognizing certain factors that are free from any taint of arbitrariness or discrimination." /19

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/19 For current status of legislative reapportionment in any state, see Appendix "C".

BURNS v. RICHARDSON, __ U.S. __, 16 L ed 2d 376 (1966)

In proceedings challenging the constitutionality of Hawaii's legislative apportionment, the District Court for the District of Hawaii held that provisions of the Hawaii Constitution apportioning the state senate were unconstitutional under the Fourteenth Amendment to the federal constitution, and ordered the legislature to give the electorate an immediate opportunity, in a special election, to authorize a convention for the purpose of amending the state constitution, the court retaining jurisdiction so that it could reapportion the senate if the electorate failed to authorize the convention or if a suitable reapportionment amendment was not adopted by the convention and approved by the electorate. (238 F Supp 468) The court subsequently suspended its order that a special election be held, and ordered the legislature to enact a statute providing, on the basis of the number of registered voters, an interim plan of apportionment of the senate until the next general election. After the legislature enacted an interim senate reapportionment plan, the court disapproved it and ordered immediate resort to a convention, its disapproval of the plan being based upon the failure of the legislature to create single-member senatorial districts instead of using multimember districts. (240 F Supp 724)

On appeal, the U. S. Supreme Court vacated the District Court's orders and remanded the case for further proceedings. In an opinion by Justice Brennan, expressing the view of six members of the court, it was held that the legislature's freedom of choice to devise a reapportionment plan should not have been restricted by the District Court beyond the clear commands of the equal protection clause of the Fourteenth Amendment; that the legislature's use of multimember districts in its interim reapportionment plan was not shown to have constituted invidious discrimination in violation of the constitution; that the use of the number of registered voters as a basis for the interim plan was not shown to have produced a distribution of legislators substantially different from that which would have resulted from the use of a permissible population basis and was not unconstitutional; and that the District Court should adopt the legislature's interim plan, but should retain jurisdiction pending the effectuation of a permanent plan of legislative reapportionment.

Justice Harlan concurred in the result but expressed the view that an earlier Supreme Court decision involving legislative apportionment was constitutionally wrong, and that even under that decision an apportionment plan based on the number of registered voters should be considered permissible regardless of whether it approximates some other kind of a population apportionment.

## III. APPORTIONMENT CASES IN ALASKA

NOLAN ET AL v. WADE, Civil Action No. 66-30, Superior Court, First Judicial District, Juneau. Memorandum opinion filed April 11, 1966.

For the first time, in either state or federal courts, the question of whether or not the Alaska State Senate was validly apportioned was raised in the above case. In addition, there was also raised the question of whether or not the governor's Proclamation of Reapportionment and Redistricting issued on September 3, 1965, was a valid exercise of executive authority and if not whether the 1966 elections could be held under the existing constitutional apportionment.

The parties conceded and the court found that the state Senate was invalidly apportioned under the equal protection clause of the Fourteenth Amendment of the U. S. Constitution.

The court held that the governor's proclamation was issued solely under the authority vested in him by Art. VI of the State Constitution, "Legislative Apportionment", and that the State Constitution gives no power to the governor to apportion the Senate. The court then directed that the 1966 elections be held under the existing provisions of the constitution and fixed December 1, 1967, as a reasonable date for enactment and adoption of a valid apportionment of the state Senate by constitutional amendment. The court retained jurisdiction of the case so that if a valid apportionment plan for the state Senate was not timely adopted, it could enter whatever order it considered necessary to permit a valid plan of apportionment to be used in the 1968 elections.

WADE v. NOLAN ET AL, 414 P2d 689 (1966)

The decision of the Superior Court was appealed to the Alaska Supreme Court. The Supreme Court agreed with the Superior Court that the state Senate was unconstitutionally apportioned because under the constitutional apportionment 30.7 per cent of the voters resided in districts which could elect a majority in the Senate.

However, the Supreme Court disagreed with the Superior Court which had held that the governor's reapportionment was invalid. The Supreme Court looked at Article VI of the constitution in detail. The court found that under Article VI reapportionment is an executive function in Alaska. The court looked at decisions from other states in which the question was where the authority lay to reapportion a frozen legislative body

on an interim basis. /20 It concluded that in such cases the courts recognized that the agency having the power of reapportionment could reapportion a "frozen" legislative body on an interim basis although not specifically granted that power by the constitution.

The court said that Article VI of the constitution as a whole and the appropriate convention minutes indicate the pervading purpose and intent of the convention was that reapportionment authority and responsibility be in the governor and the reapportionment board; "it is only reasonable to imply that it would have required the governor to periodically reapportion the Senate had it known that its frozen formula would be declared invalid." The court then held that the governor and the board had the implied power to reapportion the Senate on an interim basis.

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/20 Buckley v. Hoff, 243 F Supp 191(D. Vt. 1964); Faubus v. Kinney, 389 S.W.2d 887 (1965); In re Apportionment of Michigan Legislature, 137 N.W.2d 495 (1965)

## IV. POSSIBLE DEVIATIONS FROM SUPREME COURT RULE "ONE MAN, ONE VOTE"

It is clear that the principle which must underlie apportionment is "one-man, one-vote" in both houses. It presently appears that the only factor which a state may consider, apart from numbers, is political subdivisions./21 The Supreme Court does not feel that there can be a mathematical standard for testing the constitutionality of apportionment with respect to the permissable variation from the one-man, one-vote standard, but that the state must "make an honest and good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable." /22 The deviation may be "such minor deviations only as may occur in recognizing certain factors that are free from any taint of arbitrariness or discrimination." /23 It is clear that a state cannot give consideration to geographical considerations or have a variation to insure effective representation for sparsely settled areas as was done in the Alaska Constitution.

One probably minor aspect of determination of equality presented by the language of the Alaska Constitution is the provision of Article VI, Section 3, which provideds that the governor's decennial reapportionment shall be based upon the civilian population. This provision is not without precedent, as approximately the same limitation occurs in Washington. A number of other states have various limitations on the portions of the electorate to be used in apportioning legislative seats. The civilian limitation presents problems in that (1) there are military personnel who are residents of the state and entitled to vote in the state; (2) there is a great disparity in the distribution of military personnel throughout the state; and (3) the ratio of military to civilian personnel in the state is extremely high. In view of the fact that most military personnel stationed in Alaska do not vote here, it is probable that a deletion of the provision would give rise to much greater inequality, but it might be necessary to modify the provision somewhat to include resident military personnel in the apportionment figure. The Supreme Court has said in connection with military personnel, that "discrimination

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/21 Dissent to Reynolds v. Sims by Justice Harlan
/22 Reynolds v. Sims, 377 U.S. 533 (1964)
/23 Roman v. Sincock, 377 U.S. 695 (1964)

against a class of individuals, merely because of the nature of their employment, without more being shown, is constitutionally impermissible." /24

In order to convey some idea of how the Supreme Court in Reynolds v. Sims, supra, and companion cases, and in the cases summarily decided on June 22, 1964, and the U.S. District Courts in cases decided after June 15, 1964, have been handling the situation, the following is a list of the pertinent cases together with the numerical figures describing the disparities alleged to result in invidious discrimination, and the action on the case:

Reynolds v. Sims, Alabama

Constitutional plan in effect since 1901: population-variance ratios of up to 41 - 1 in the Senate, 16 - 1 in the House.

Proposed constitutional amendment: population-variance ratios of up to 59 - 1 in the Senate and 4.7 - 1 in the House.

Crawford-Webb Act (standby legislation to take effect in 1966 if constitutional amendment should fail) population-variance ratios of up to 20 - 1 in the Senate and 5 - 1 in the House.

All rejected: A provisional plan put into effect using parts of the proposed constitutional amendment and part of the Crawford-Webb Act, with an opportunity given to the provisionally reapportioned legislature to adopt a valid permanent scheme.

WMCA v. Lomenzo, New York

1894 Constitution, 1960 census apportionment: maximum population-variance ratio in Senate 3.9 - 1 and in the House 21 - 1.

Case remanded to District Court to determine whether to conduct the election under the old provisions or whether conditions permit redress of the constitutional inequities before the 1964 elections. The state Court of Appeals appointed a five-man bipartisan commission to draw up a valid reapportionment plan by March 14, 1966, after the legislature failed to agree on a plan.

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/24 Davis v. Mann, 377 U.S. 678 (1964)

Lucas v. Forty-fourth General Assembly of Colorado

Colorado Constitution as amended in 1962: maximum population-variance ratio is 3.9 - 1 in the Senate and 1.7 - 1 in the House.

Apportionment of the legislature as a whole was rejected, with the court specifically declining to comment upon the population-variance ratio in the House alone. Case remanded to the District Court to determine whether the 1964 elections would have to be conducted under the old scheme or whether appellants' right to cast adequately weighted votes could be effectuated in 1964.

Maryland Committee for Fair Representation v. Tawes

Maryland Constitution: maximum population-variance ratio is 32 - 1 in the Senate and 12 - 1 in the House.

Stopgap legislation in 1962 reapportioned the House so that a maximum population-variance ratio of 6 - 1 continued to exist.

Case remanded to Maryland court with instructions to act only if the legislature should fail to reapportion itself constitutionally.

Davis v. Mann, Virginia

Virginia Code: maximum population-variance ratio is 2.65 - 1 in the Senate and 4.36 - 1 in the House.

Case remanded to the District Court with instructions to exercise its equitable powers only should the Virginia legislature not act to create a constitutionally acceptable plan of apportionment before 1965, the next date of election of Virginia legislators.

Roman v. Sincock, Delaware

Delaware Constitution prior to 1963 constitutional amendment: maximum population-variance ratio of 15 - 1 in the Senate, and 35 - 1 in the House.

After 1963 amendment if effectuated: maximum population-variance ratio in Senate remains the same, reduced in House to 12 - 1.

Case remanded to District Court to determine whether 1964 elections should be held under the terms of the 1963 amendment or whether relief should be granted earlier.

In those cases summarily decided on June 22, 1964, the Supreme Court:

Affirmed Meyers v. Thigpen, 211 F. Supp. 826 (1963) in which it was held that equal protection was not denied by Washington's congressional districting in which the maximum population-variance ratio was 1.5 - 1 and that the District Court has jurisdiction of a legislative apportionment case in which invidious discrimination is alleged, even though Washington voters in 1962 rejected an initiative proposal to reapportion on the basis of population.

Reversed Nolan v. Rhodes, 31 LW 2641 (1963) in which it was held that the provisions of the Ohio Constitution which guarantees each county at least one representative in the lower house does not invidiously discriminate against urban voters proportionally represented in the upper house. (Ohio's maximum population-variance ratio in the lower house is approximately 14 - 1.)

Affirmed Williams v. Moss, 32 LW 2077 (1963) and Oklahoma Farm Bureau v. Moss (same citation) in which judicial reapportionment was held to be available where 1963 legislature had failed to correct malapportionment declared unconstitutional in 1962, even though a constitutional amendment had been proposed which would be placed before the voters in 1964 and would, if approved by the voters, become effective in 1965.

Affirmed Lucas v. Adams (USDC MFla May 22, 1963) in which it was held that no claim was stated on which relief could be granted by a complaint seeking to enjoin enforcement of the 1963 apportionment act on the grounds that the Act invidiously discriminates against residents of more populous counties by giving residents of smaller counties, regardless of population, the right to elect at least one lower house member, while failing to secure to somewhat similar numbers of citizens living in more populous counties the right to elect at least one house member.

Reversed Germano v. Kerner, 220 F. Supp. 230 (1963) which held that Illinois' apportionment of the upper house on a geographical basis did not violate the Fourteenth Amendment so long as the lower house was

apportioned on a population basis. (The maximum population-variance ratio in the Illinois Senate is 10 - 1.)

Reversed Marshall v. Hare (USDC EMich, March 16, 1964) which held that the Fourteenth Amendment was not violated by a provision of the Michigan Constitution which permitted a maximum population-variance of 4 - 1 in the upper house, even though this representation was said to be necessary to assure representation to certain counties.

Reversed Hearne v. Smylie, 225 F. Supp. 355 (1963) which held that (a) the District Court was obliged to dismiss as beyond its capabilities a declaratory judgment suit alleging Idaho's legislative apportionment to be irrational and unconstitutional and (b) owing to its inability to devise an effective remedy for injustices claimed by voters to result from malapportionment of the legislature, the District Court was required to dismiss, for want of equity, a voters' suit to enjoin further elections under Idaho's apportionment statute.

Affirmed Pinney v. Butterworth (USDC Conn. March 26, 1964) in which it was held that voters in larger towns were discriminated against by a limitation in the Connecticut Constitution that every town should have at least one and not more than two representatives in the lower house. (The maximum population-variance ratio in the lower house is 425 - 1.)

Affirmed Hill v. Davis (USDC SIowa, January 14, 1964) in which it was held that Iowa's constitutional provision that each county should have one representative in the upper house and at least one in the lower house was unconstitutional.

William B. Saxbe in "Criteria Established by Court Decisions" /25 concludes:

(1) Each legislator must represent approximately the same number of people. As a rule of thumb, a plan under which districts deviate from the population of the perfect district by no more than fifteen per cent will be

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/25 Reapportioning Legislatures, Chapter 4, Howard D. Hamilton, Editor, 1966.

constitutional, and a plan having districts that exceed this fifteen per cent limit will probably be unconstitutional. /26

(2) An apportionment plan cannot be used for purposes of racial discrimination. Any plan which results in the power of minority groups being split between several districts, or overwhelmed in a multiple member district by a monolithic majority, is likely to be held invalid.

(3) As a strictly legal proposition, it is unclear whether political gerrymandering raises a judicial question, but the interests of good government obviously make gerrymandering an unacceptable practice.

(4) Multiple-member districts are not unconstitutional per se. However, if used for purposes of racial discrimination, they will be unconstitutional. Additionally, if huge blocks of votes are seen in one district it is not likely to meet court approval.

(5) Sitting legislators have no constitutional right to their office. If an attempt to protect such legislators results in an apportionment plan that violates the other guidelines or which would continue in office legislators who were elected under an invalid system, then that plan is unconstitutional.

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/26 See chart on the following pages. And see Appendix "E" for 1966 electoral percentages in all states.

CHARTS

SHOWING POPULATION FIGURES

PER HOUSE AND SENATE DISTRICT

and

APPORTIONMENT FORMULA

| House District Number | House District Name | 1960 Civilian Population | Number of Rep's | Population / Rep's | Senate District | Number of Senators | Population / Senators |
|---|---|---|---|---|---|---|---|
| 1 | Ketchikan | 11,537 | 2 | 5,768 | A | 1 | 11,537 |
| 2 | Wrangell-Petersburg | 4,181 | 1 | 4,181 | B | 1 | 10,786 |
| 3 | Sitka | 6,605 | 1 | 6,605 | | | |
| 4 | Juneau | 9,545 | 2 | 4,773 | C | 1 | 12,471 |
| 5 | Lynn Canal | 2,926 | 1 | 2,926 | | | |
| 6 | Cordova-Valdez | 3,936 | 1 | 3,936 | D | 1 | 9,197 |
| 7 | Palmer-Wasilla | 5,261 | 1 | 5,261 | | | |
| 8 | Anchorage | 68,456 | 14 | 4,890 | E | 7 | 9,780 |
| 9 | Seward | 2,956 | 1 | 2,956 | F | 1 | 8,646 |
| 10 | Kenai | 5,690 | 1 | 5,690 | | | |
| 11 | Kodiak | 5,367 | 1 | 5,367 | G | 1 | 8,961 |
| 12 | Aleutian Islands | 3,594 | 1 | 3,594 | | | |
| 13 | Bristol Bay | 3,485 | 1 | 3,485 | H | 1 | 8,958 |
| 15 | Yukon-Kuskokwim | 5,473 | 1 | 5,473 | | | |
| 16 | Fairbanks | 34,958 | 7 | 4,994 | I | 4 | 8,740 |
| 17 | Barrow-Kobuk | 5,449 | 1 | 5,449 | J | 1 | 11,036 |
| 18 | Nome | 5,587 | 1 | 5,587 | | | |
| 14 /29 | Bethel | 5,412 | 1 | 5,412 | K | 1 | 8,469 |
| 19 | Wade-Hampton | 3,057 | 1 | 3,057 | | | |
| | | 193,475 | 40 | | | 20 | |

/29 Bethel is out of numerical order since it is part of Senate District K

## FORMULA FOR OBTAINING POPULATION FIGURE REPRESENTED BY EACH LEGISLATIVE SEAT /27

| House | Senate |
|---|---|
| 4,837 people should be represented by one legislator (40/ 193,475) | 9,674 people should be represented by one legislator (20/ 193,475) |
| 15% variance over 4,837 - 5,563 | 15% variance over 9,674 - 11,125 |
| 15% variance under 4,837 - 4,111 | 15% variance under 9,674 - 8,223 |
| 4,719 (41/ 193,475) | 9,213 (21/ 193,475) |
| 15% variance over 4,719 - 5,427 | 15% variance over 9,213 - 10,595 |
| 15% variance under 4,719 - 4,011 | 15% variance under 9,213 - 7,831 |

The above figures indicate that although each member of the House should represent 4,837 people, that in fact the representative from House District No. 5 represents only 2,926, while the representative from House District No. 3 represents 6,605.

/27 1960 civilian population of Alaska (193,475) divided by membership of the house.

## V. CONSIDERATIONS FOR CONSTITUTIONAL CHANGES

### A. Alaska Constitution

#### Article II

Section 3. An election has been held under the new apportionment scheme, and with the new plan in effect, this section is again appropriate. It is questionable whether any change should be made.

#### Article VI

Section 3. The Senate as well as the House should be covered by this section. A change may be indicated here in connection with basing the apportionment upon the civilian population. A possible change to bring the section in line with the Supreme Court's expressed view in Davis v. Mann, supra, would be to insert after "civilian" the words "and resident military". This change, if adopted, must also be made in other sections of this article where the phrase appears.

Sections 4 - 7. These sections embody provisions which now will permit the governor to redistrict the House within the requirements of the equal protection clause. It appears, however, that the limitation of section 7 would prohibit him from doing the same for the Senate within the present framework. A number of possible alterations are therefore possible in these sections. Such provisions as prevent the governor from complying with the mandate of the United States Constitution could merely be removed, or alternatively, a section or sections could be substituted for the present sections 4 - 7 which would specifically enunciate the principle of equal representation as a basis for the apportionment of both houses of the legislature.

Section 10. This section provides only for a decennial reapportionment, not for a reapportionment of the kind which has taken place in the 1966 election. Therefore, while the section is sound as a permanent part of the article, it was ignored in order to carry out the present reapportionment. The legislature may want to consider whether any change in the wording is indicated to take care of a similar situation in the future.

Article XIV

Sections 1 and 3. These sections set up the original apportionment schedule for the House and were in effect superseded by the action of the Reapportionment Board and the governor culminating in the reapportionment proclamation of September 3, 1965.

Section 2 is the description of the senatorial districts which will disappear with Senate reapportionment and redistricting.

It appears that Article XIV should be deleted in its entirety since it has served its purpose for the initial apportionment of seats in the first state legislature and no longer rules.

It should be mentioned that there seems to be a procedural question in preparing and voting on this series of amendments. The changes necessary to bring the constitution into conformity with the federal constitution may be several in number, affecting different sections and even articles of the constitution, yet closely related to one another. It would be problematical to regard each change in wording as an independent "amendment" since the integrated plan could be rendered meaningless if one part failed. It is suggested, therefore, that the situation might be simplified by the use of a kind of "one-subject" rule, by which changes proposed would be separated to the extent possible, but changes in different sections which formed part of a plan and would be meaningless independently would be considered a single "amendment" for purposes of proposal and placement on the ballot, and would stand or fall together upon referral to the people.

B. Other Considerations

(1) The number of members in each house. When considering constitutional amendments, it might be well to change the present constitutional provisions for even-numbered membership in each house to an odd number, e.g., a Senate of 19 or 21 members and a House of 39 or 41 members to avoid tied votes.

(2) Use of civilian population as an apportionment basis. Thus far there has been no judicial determination of record as to the constitutionality of using strictly civilian population as a basis for determining apportionment of legislative seats. Most states use total population but variations include using the total population excluding aliens, regular military, and non-tax paying Indians, the number of registered voters,

the number of persons voting in the preceding general election for a certain office (e.g., the governor), and, in Indiana, the male population over 21 years of age. See the discussion in the June 1, 1965, opinion of the state attorney general. /28

(3) Multi-member districts. The Advisory Reapportionment Board recommended that District 8 (Anchorage) be divided into four House Districts and four Senate Districts. The governor, in his proclamation, did not make any changes in the House Districts, and House District 8 remained a multi-member district. The governor designated House District 8 as Senate District E, with the seven senators running at large. The governor gave two reasons for his decision that House District 8 and Senate District E would be multi-member districts. First, Anchorage has traditionally been a multi-member district and secondly, it would be unfair to divide Anchorage into more than one legislative district on the basis of the 1960 census figures because they became obsolete after the 1964 earthquake which resulted in a radical population dislocation. See the discussion in the June 1, 1965, opinion of the state attorney general. /29

(4) Unicameral Legislature. There is evidence of increasing interest in the unicameral legislature idea (Nebraska) since the new requirement for apportionment of both houses on a strict apportionment basis removes the original purpose of a bicameral -- a balance of having one house based mainly on population and the other emphasizing area representation. However, there are many factors to be considered in discussing the relative merits of a bicameral versus a unicameral legislature that go beyond the differences in the basis of apportionment for a bicameral legislature.

/28 Appendix "D"
/29 Idem.

## VI. SCHEDULE FACTORS IN PROPOSING AND ADOPTING CONSTITUTIONAL CHANGES IN LEGISLATIVE APPORTIONMENT

1967 — If the 1967 legislature proposed amendments, the proposition would not go on the ballot until August 1968 unless a special election is called for and financed for late 1967 or very early 1968.

1968 — If a regular election schedule is followed, amendments approved by the voters in 1968 would be effective for the 1970 filings and elections.

1970 — Elections could be held under a new apportionment-districting plan. The federal decennial census is reported late in the year. If the census is still the basis, the advisory board or other authority would undoubtedly take into 1971 to come up with a new plan effective for 1972. If no constitutional convention is held in the meantime, the proposition asking for voter opinion on a constitutional convention would go on the November general election ballot. A constitutional convention would devise a plan, subject to ratification, which would become effective for the election year 1972.

Without any legislative action in 1967 - 1968, the normal course of events would bring about decennial reapportionment/redistricting effective for the 1972 filings and election. If the decennial census basis is kept and the legislature proposes a constitutional amendment during 1967 - 1968 and the amendment is approved in 1967 - 1968 by the people, it would be operative for only two years. A convention held during the same period would have the same two-year effect.

# A P P E N D I C E S

APPENDIX A

REAPPORTIONMENT ADVISORY BOARD

STATE OF ALASKA

June 4, 1965

The Honorable William A. Egan
Governor of Alaska
Juneau, Alaska

Dear Sir:

The Reapportionment Advisory Board reconvened as a result of your official Proclamation, dated March 6, 1965. The Board has held public hearings on the matter of reapportionment in all of the major regions of the State of Alaska. The schedule of those public hearings was as follows:

| | |
|---|---|
| Fairbanks | May 10th |
| Nome | May 11th |
| Anchorage | May 12th |
| Juneau | May 13th |

In addition the following meetings were held by the Board as part of its program for developing a plan of Reapportionment for submittal to you:

| | |
|---|---|
| Anchorage | March 22nd and 23rd |
| Fairbanks | April 9th and 10th |
| Juneau | May 13th and 14th |
| Anchorage | June 4th |

In developing its program for reapportioning the State Legislature the Board has given due consideration to all the data presently available to it. This consists of the report submitted by the Board on December 10, 1964; the more recent opinions of the Attorney General and their relation to the decisions of the Federal Supreme Court which have become available subsequent to the December report; the hearings held; the personal contacts and observations of the Board Members; and all other relevant matter which has been presented in person, by letter, or other form to the Board for its consideration. On the basis of full and complete discussion of the relevant data and material, the Board unanimously recommends the following plan for Reapportionment and Redistricting of the Alaska State Legislature:

a. All existing House Districts except District No. 8 shall remain as presently constituted and retain their present number of House seats.

b. District No. 8 shall be subdivided into four districts. They shall be titled: Anchorage City, Anchorage North, Anchorage Southeast and Anchorage Southwest. The subdivision shall be in accord with the attached descriptions of the four new districts.

c. Anchorage City District shall have eight House seats and four Senate seats assigned to it with the candidates for these seats running at-large from the Anchorage City District.

Anchorage North District shall have two House seats and one Senate seat with the candidates for these seats running at-large from the Anchorage North District.

Anchorage Southeast District shall have two House seats and one Senate seat assigned to it with the candidates for these seats running at-large from the Anchorage Southeast District.

Anchorage Southwest District shall have two House seats and one Senate seat assigned to it with the candidates for these seats running at-large from the Anchorage Southwest District.

d. The House election Districts shall be renumbered from 1 to 22 and named in accord with the attached Schedule of House Apportionment.

e. The Senate Districts shall be fourteen in number and shall be designated by the letters "A" thru "N" and formed of the House Districts listed on the attached schedule of Senate Apportionment.

f. The terms of office for the Senators from the various Senate Districts shall be as set forth in the attached schedule of Senate Apportionment. In Senate Districts "E" and "L", one half of the Senate seats shall be designated as position "A" and one half designated as position "B" for the purpose of the initial election under this schedule of apportionment to insure that one half of the Senate is elected in each biennial election following the initial election.

The Board again wishes to repeat its recommendation that any future Federal Census be taken with more regard to the requirements of the Alaska State Constitution in the matter of redistricting and reapportioning the State Legislature. The use of enumeration districts encompassing more than 1/400th of the population of the State as well as enumeration districts totally surrounding other enumeration districts creates situations which make redistricting and reapportioning the State extremely difficult.

For your information and review the Board is attaching to this report minutes of the Board Meetings and Public Hearings, copies of correspondence received and marked up maps of the Anchorage area indicating the recommended redistricting of existing Election District No. 8.

Respectfully submitted,

Victor D. Toner, Chairman

Irene Ryan

Edward M. Cox

Florence Lancashire

Doris Wilke

ANCHORAGE - CITY AREA

Being that area used in the 1960 Census as the Anchorage City Area and more particularly described as follows:

Beginning at a point on the southerly boundary line of Section 22, T13NR4W, S.M., approximately 1800' west of the easterly boundary line of Section 22; thence east along the southerly boundary line of Section 22 and the centerline of Northern Lights Boulevard to the centerline of Minnesota Drive; thence south along the centerline of Minnesota Drive to the southerly boundary of the Martin Manor Subdivision; thence east along the southerly boundary of the Martin Manor Subdivision to the centerline of Spenard Road; thence north along the centerline of Spenard Road to the centerline of Northern Lights Boulevard; thence east along the centerline of Northern Lights Boulevard to the centerline of Arctic Boulevard; thence north along the centerline of Arctic Boulevard to the centerline of Fireweed Lane; thence east along the centerline of Fireweed Lane to the centerline of the Seward Highway; thence south along the centerline of Seward Highway to the east-west centerline of Section 29, T13NR3W, S.M.; thence east along the east-west centerline of Section 29 to the centerline of Lake Otis Parkway; thence south along the centerline of Lake Otis Parkway to the southerly east-west sixteenth line of Section 28, T13NR3W, S.M.; thence east along the southerly sixteenth line of Section 28 and 27, T13NR3W, S.M., to the north-south centerline of Section 27; thence north along the north-south centerline of Section 27 and Section 22 to the east-west centerline of Section 22, T13NR3W, S.M.; thence east along the east-west centerline of Section 22 to the centerline of Boniface Parkway; thence north along the centerline of Boniface Parkway to the east-west centerline of Section 15, T13NR3W, S.M.; thence west along the east-west centerline of Section 15 to the north-south centerline of Section 15; thence north along the north-south centerline of Section 15 and the centerline of Pine Street to the east-west centerline of Section 10, T13NR3W, S.M., identical with the centerline

of McPhee Avenue; thence west along the centerline of McPhee Avenue to the centerline of Taylor Street, projected; thence south along the centerline of Taylor Street to the centerline of Thompson Avenue; thence west along the centerline of Thompson Avenue, projected, to the intersection with the westerly sixteenth line of Section 9, T13NR3W, S.M.; thence north along the westerly sixteenth line of Section 9 to the centerline of Bluff Road; thence southwesterly along the centerline of Bluff Road to the centerline of Plum Street; thence north along the centerline of Plum Street and its projection to the east-west centerline of Section 5, T13NR3W, S.M.; thence west to the centerline of Knik Arm; thence southwesterly along the centerline of Knik Arm to a point due north of the point of beginning; thence due south to the place of beginning.

## ANCHORAGE NORTH

All of that area drained by streams flowing into the Knik Arm from the east from and including the Old Knik River Bridge on the north to a southerly boundary line more particularly described as follows:

Beginning at a point on the centerline of Knik Arm where it intersects the westerly projection of the east-west centerline of Section 6, T13NR3W, S.M.; thence east along the projected east-west centerline of Section 6 & 5, T13NR3W, S.M. to the north-south centerline of Section 5, T13NR3W, S.M.; thence south along the north-south centerline of Section 5 and the centerline of Plum Street to the centerline of Bluff Road; thence northeasterly along the centerline of Bluff Road to its intersection with the westerly sixteenth line of Section 9, T13NR3W, S.M.; thence south along the westerly sixteenth line of Section 9 to the westerly projection of the centerline of Thompson Ave.; thence east along the westerly projection of the centerline of Thompson Ave. and the centerline of Thompson Ave. to the centerline of Pine Street; thence south along the centerline of Pine Street to the south boundary of Section 10, T13NR3W, S.M.; thence east to the intersection with the Knik Arm Drainage Divide.

## ANCHORAGE SOUTHEAST

All of that area drained by streams flowing into Turnagain Arm from and including Placer River on the south; and bounded on the west by a line more particularly described as follows:

Beginning at the intersection of the centerline of Seward Highway with the east-west centerline of Section 29, T13NR3W, S.M.; thence south along the centerline of the Seward Highway and the easterly boundary of Section 30, T12NR3Wm S.M. to the centerline of Turnagain Arm.;

and bounded on the north by a line more particularly described as follows:

Beginning at the intersection of the centerline of the Seward Highway with the east-west centerline of Section 29, T13NR3W, S.M.; thence east along the east-west centerline of Sectioh 29 to the centerline of the Lake Otis Parkway; thence south along the centerline of Lake Otis Parkway to the southerly east-west sixteenth line of Section 28, T13NR3W, S.M.; thence east along the southerly east-west sixteenth line of Sections 28 and 27m T13NR3W, S.M. to the north-south centerline of Section 27, thence North along the north-south centerline of Sections 27 and 22, T13NR3W, S.M. to the east-west centerline of Section 22; thence east along the east-west centerline of Section 22, T13NR3W, S.M. to the centerline of Boniface Parkway; thence north along the centerline of Boniface Parkway tothe east-west centerline of Section 15, T13NR3W, S.M.; thence West along the east-west centerline of Section 15 to the north-south centerline of Section 15, T13NR3W, S.M.; thence north along the north-south centerline of Section 15 to the north boundary of Section 15, T13NR3W, S.M.; thence east to the Knik River Drainage Divide,

## ANCHORAGE SOUTHWEST

Beginning at a point on the southerly boundary line of Section 22, T13NR4W, S.M. approximately 1,800' west of the easterly boundary line of Section 22; thence east along the southerly boundary line of Section 22 and the centerline of Northern Lights Boulevard to the centerline of Minnesota Drive; thence south along the centerline of Minnesota Drive to the southerly boundary line of the Martin Manor Subdivision; thence east along the southerly boundary of the Martin Manor Subdivision to the centerline of the Spenard Road; thence north along the centerline of Spenard Road to the centerline of Northern Lights Boulevard; thence east along the centerline of Northern Lights Boulevard to the centerline of the Seward Highway; thence south along the centerline of the Seward Highway and the easterly boundary of Section 30, T12NR3W, S.M., to the centerline of Turnagain Arm; thence northwesterly following the centerline of Turnagain Arm and northeasterly following the centerline of Knik Arm to a point due north of the point of beginning; thence due south to the place of beginning; and also including all of Fire Island within its limits.

## SCHEDULE OF HOUSE APPORTIONMENT

| House District No. | Name of District | No. of Representatives |
|---|---|---|
| 1 | Ketchikan | 2 |
| 2 | Wrangell-Petersburg | 1 |
| 3 | Sitka | 1 |
| 4 | Juneau | 2 |
| 5 | Lynn Canal | 1 |
| 6 | Cordova-Valdez | 1 |
| 7 | Palmer-Wasilla | 1 |
| 8 | Anchorage City | 8 |
| 9 | Anchorage North | 2 |
| 10 | Anchorage Southeast | 2 |
| 11 | Anchorage Southwest | 2 |
| 12 | Seward | 1 |
| 13 | Kenai | 1 |
| 14 | Kodiak | 1 |
| 15 | Aleutian Islands | 1 |
| 16 | Bristol Bay | 1 |
| 17 | Yukon-Kuskokwim | 1 |
| 18 | Fairbanks | 7 |
| 19 | Barrow-Kobuk | 1 |
| 20 | Nome | 1 |
| 21 | Wade-Hampton | 1 |
| 22 | Bethel | 1 |
| | | 40 |

Ratio Calculations:

Lowest District — Population 2,926 (Lynn Canal)

Highest District — Population 6,605 (Sitka)

Ratio - - - - - - 2.25 to 1

Percentage of Population required to elect majority of House 47.1%

## SCHEDULE OF SENATE APPORTIONMENT

| Senate District | Name of District | No. of Senators | Initial Term of Senator |
|---|---|---|---|
| A. | Ketchikan | 1 | 4 years |
| B. | Wrangell-Petersburg & Sitka | 1 | 2 years |
| C. | Juneau & Lynn Canal | 1 | 4 years |
| D. | Cordova-Valdez & Palmer-Wasilla | 1 | 2 years |
| E. | Anchorage City | 4 | (see note) |
| F. | Anchorage North | 1 | 4 years |
| G. | Anchorage Southeast | 1 | 2 years |
| H. | Anchorage Southwest | 1 | 4 years |
| I. | Seward & Kenai | 1 | 2 years |
| J. | Kodiak & Aleutian Islands | 1 | 4 years |
| K. | Bristol Bay & Yukon-Kuskokwim | 1 | 2 years |
| L. | Fairbanks | 4 | (see note) |
| M. | Barrow-Kobuk & Nome | 1 | 4 years |
| N. | Bethel & Wade-Hampton | 1 | 2 years |
| | | 20 | |

Note: In both Senate District E and Senate District L, it will be necessary to designate half the Senate seats as position "A" and half the seats as position "B" for the purpose of the initial election under this schedule of apportionment to insure that one half of the Senate is elected in each biennial election following the initial election.

Ratio Calculations:

Lowest District Population 8,159 (Anchorage Southeast)

Highest District Population 12,471 (Juneau-Lynn Canal)

Ratio - - - - - - 1,526 to 1

Percentage of Populations required to elect majority of Senate 53.1%

# POPULATION TABULATION TO ACCOMPANY HOUSE and SENATE APPORTIONMENT SCHEDULES

| House District No. | House Dist. Name | 1960 Civilian Pop. | No. of Repr. | Pop/Repr. | Senate District | No. of Senators | Pop/Senator |
|---|---|---|---|---|---|---|---|
| 1 | Ketchikan | 11,537 | 2 | 5,768 | A | 1 | 11,537 |
| 2 | Wrangell-Petersburg | 4,181 | 1 | 4,181 ) | | | |
| 3 | Sitka | 6,605 | 1 | 6,605 ) | B | 1 | 10,786 |
| 4 | Juneau | 9,545 | 2 | 4,773 ) | | | |
| 5 | Lynn Canal | 2,926 | 1 | 2,926 ) | C | 1 | 12,471 |
| 6 | Cordova-Valdez | 3,936 | 1 | 3,936 ) | | | |
| 7 | Palmer-Wasilla | 5,261 | 1 | 5,261 ) | D | 1 | 9,197 |
| 8 | Anchorage City | 39,018 | 8 | 4,970 | E | 4 | 9,954 |
| 9 | Anchorage North | 9,546 | 2 | 4,773 | F | 1 | 9,546 |
| 10 | Anchorage Southeast | 8,158 | 2 | 4,079 | G | 1 | 8,158 |
| 11 | Anchorage Southwest | 10,934 | 2 | 5,467 | H | 1 | 10,934 |
| 12 | Seward | 2,956 | 1 | 2,956 ) | | | |
| 13 | Kenai | 5,690 | 1 | 5,690 ) | I | 1 | 8,646 |
| 14 | Kodiak | 5,367 | 1 | 5,367 ) | | | |
| 15 | Aleutian Islands | 3,594 | 1 | 3,594 ) | J | 1 | 8,961 |
| 16 | Bristol Bay | 3,485 | 1 | 3,485 ) | | | |
| 17 | Yukon-Kuskokwim | 5,473 | 1 | 5,473 ) | K | 1 | 8,958 |
| 18 | Fairbanks | 34,958 | 7 | 4,994 | L | 4 | 8,740 |
| 19 | Barrow-Kobuk | 5,449 | 1 | 5,449 ) | | | |
| 20 | Nome | 5,587 | 1 | 5,587 ) | M | 1 | 11,036 |
| 21 | Bethel | 5,412 | 1 | 5,412 ) | | | |
| 22 | Wade-Hampton | 3,057 | 1 | 3,057 ) | N | 1 | 8,469 |
| | | 193,479 | 40 | | | 20 | |

# PROCLAMATION OF REAPPORTIONMENT AND REDISTRICTING

WHEREAS, the United States Supreme Court in the case of Reynolds v. Sims, and in other companion cases decided in June of 1964, held that under the Equal Protection Clause of the United States Constitution both houses of a state legislature must be apportioned on a population basis and that a state is required to make an honest and good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable;

WHEREAS, it does not appear that the Alaska State Senate is apportioned on a population basis within the meaning of the Supreme Court decisions;

WHEREAS, the Constitution of the State of Alaska (Article VI) and the minutes of the Alaska Constitutional Convention clearly contemplate that the Governor shall have the sole responsibility for legislative reapportionment;

WHEREAS, the mandate of the United States Supreme Court can be carried out in a manner consistent with the manifest intent of the Constitution of the State of Alaska only by reapportionment by the Governor with the advice of the Advisory Reapportionment Board;

WHEREAS, I, William A. Egan, Governor of the State of Alaska, pursuant to Article VI of the Constitution of the State of Alaska, issued a Proclamation on March 6, 1965, directing the Advisory Reapportionment Board to submit a plan that would meet the requirements of the Supreme Court decisions and those provisions of the Constitution of the State of Alaska that are not in conflict with those decisions;

WHEREAS, the Advisory Reapportionment Board convened pursuant to my order and on June 8, 1965, submitted to me a plan for reapportionment and redistricting;

WHEREAS, the Governor is required by law to issue a proclamation of reapportionment and redistricting within 90 days after receipt of the recommendations of the Advisory Reapportionment Board;

NOW, THEREFORE, I, WILLIAM A. EGAN, Governor of the State of Alaska, do proclaim the following plan of reapportionment and redistricting:

First: The election districts for the House of Representatives shall remain as designated by the Proclamation of Reapportionment and Redistricting of December 7, 1961.

Second: Members of the Senate shall be elected from the Senate Districts and in the number shown below:

| Senate District | Name of District | Composed of Election Districts | Number of Senators |
|---|---|---|---|
| A. | Ketchikan | 1 | 1 |
| B. | Wrangell-Petersburg & Sitka | 2 & 3 | 1 |
| C. | Juneau & Lynn Canal | 4 & 5 | 1 |
| D. | Cordova-Valdez & Palmer-Wasilla | 6 & 7 | 1 |
| E. | Anchorage | 8 | 7 |
| F. | Seward & Kenai | 9 & 10 | 1 |
| G. | Kodiak & Aleutian Islands | 11 & 12 | 1 |
| H. | Bristol Bay & Yukon-Kuskokwim | 13 & 15 | 1 |
| I. | Fairbanks | 16 | 4 |
| J. | Barrow-Kobuk & Nome | 17 & 18 | 1 |
| K. | Bethel & Wade-Hampton | 14 & 19 | 1 |
| | | | 20 |

Third: This reapportionment and redistricting shall be effective for elections of members of the Legislature until the next decennial census.

Fourth: This reapportionment and redistricting shall be implemented for the 1966 primary and general elections. The terms of all members of the Fourth State Legislature shall terminate on the fourth Monday in January, 1967. In the 1966 general election 40 members shall be elected to the House of Representatives and 20 members to the Senate.

Fifth: Members of the State Senate elected at the 1966 general election shall serve the term indicated as follows:

| Senate District | Name of District | Initial Term of Senator |
|---|---|---|
| A. | Ketchikan | 4 years |
| B. | Wrangell-Petersburg and Sitka | 2 years |
| C. | Juneau-Lynn Canal | 4 years |
| D. | Cordova-Valdez and Palmer-Wasilla | 2 years |
| E. | Anchorage A | 4 years |
| | Anchorage B | 2 years |

| Senate District | Name of District | Initial Term of Senator |
|---|---|---|
| | Anchorage A | 4 years |
| | Anchorage B | 2 years |
| | Anchorage A | 4 years |
| | Anchorage B | 2 years |
| | Anchorage A | 4 years |
| F. | Seward & Kenai | 2 years |
| G. | Kodiak & Aleutian Islands | 4 years |
| H. | Bristol Bay & Yukon-Kuskokwim | 2 years |
| I. | Fairbanks A | 4 years |
| | Fairbanks B | 2 years |
| | Fairbanks A | 4 years |
| | Fairbanks B | 2 years |
| J. | Barrow-Kobuk & Nome | 4 years |
| K. | Bethel & Wade-Hampton | 2 years |

Sixth: State legislators elected at the 1966 general election shall hold office for a term beginning with the fourth Monday of the January following election. Their term shall be two years, except that senators elected for four-year terms shall serve an additional two years thereafter.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the State to be affixed, this third day of September in the year of our Lord nineteen hundred and sixty five.



William R. Egan
Governor

ATTEST:

Secretary of State

STATEMENT ACCOMPANYING PROCLAMATION
OF
REAPPORTIONMENT AND REDISTRICTING

I have adopted the excellent and well-considered recommendations of the Advisory Reapportionment Board with two exceptions, neither of which increases or decreases the numerical representation allotted by the Board to any area.

Under the Board's recommendation District 8 would be divided into four House Districts. Under my Proclamation all House Districts, including District 8, remain exactly as they were designated in the Proclamation and Redistricting of December 7, 1961.

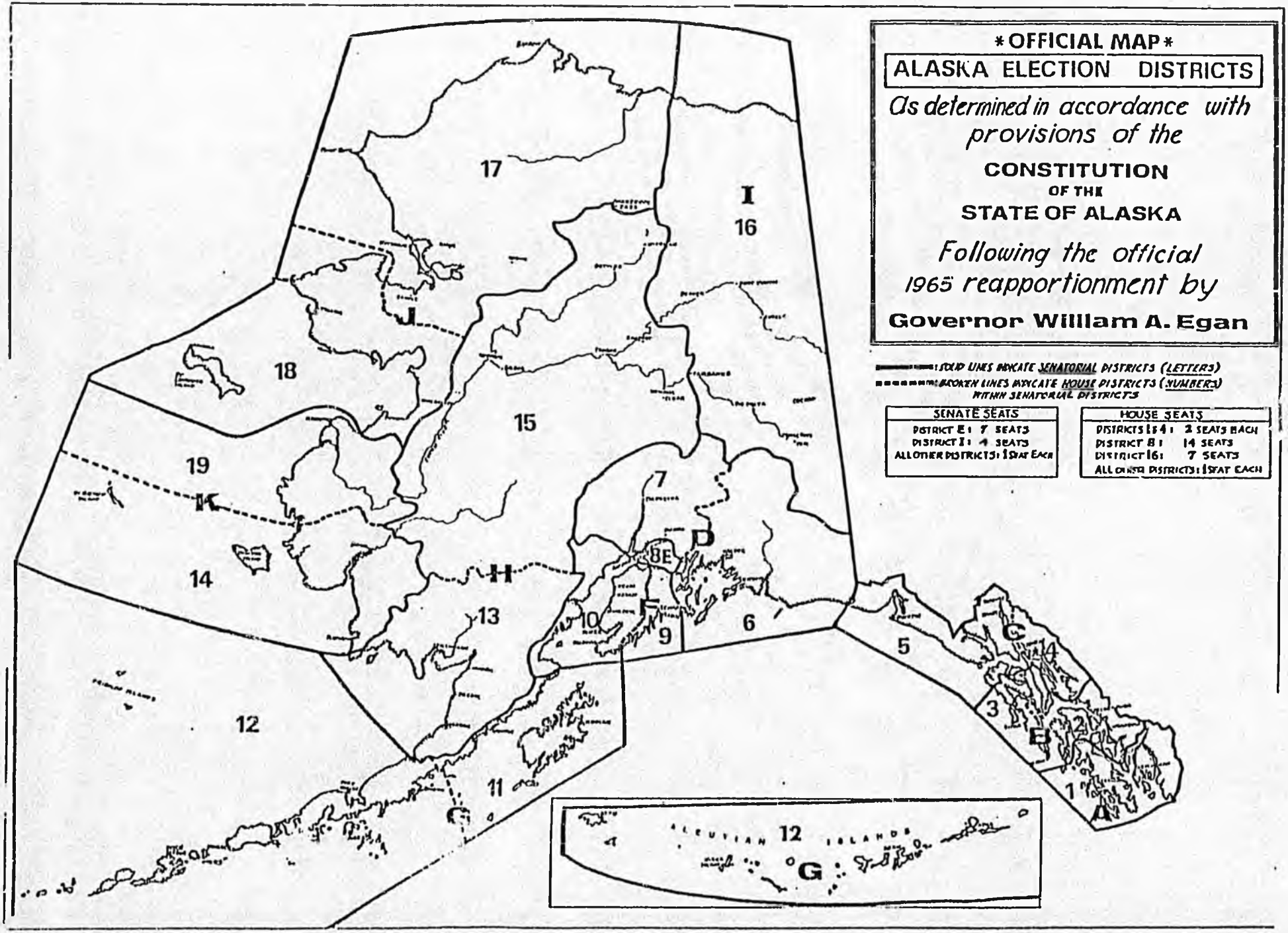
Under the Board's recommendation District 8 would also be divided into four Senate Districts (E, F, G and H), with a total of 7 senators assigned to the four districts. I have changed the Board's recommendation so that the 7 senators assigned to District 8 will all run at large in that district which will be designated Senate District E. This will eliminate Senate Districts F, G and H from the Board's proposal, and all other Senate Districts have been re-lettered accordingly in the Proclamation.

It would be unwise and unfair to attempt to divide District 8 into more than one legislative district on the basis of the 1960 census figures. These figures became obsolete with the March 27, 1964, earthquake which devastated large, heavily populated areas in and around Anchorage and resulted in radical population dislocation and movement of unknown proportions. Therefore, any reapportionment plan based on the 1960 census which would split District 8 into several legislative districts could result in over-representation of districts which have lost a considerable part of their population and under-representation of districts which gained substantially in population as a result of the earthquake and subsequent dislocation.

Furthermore, Anchorage has traditionally been a multi-member district with all of its candidates for the Legislature running at large. This system has proved workable and fair in the past, and is the most equitable one which can be devised under existing circumstances.

Dated September 3, 1965.

William A. Egan
Governor


*OFFICIAL MAP*
ALASKA ELECTION DISTRICTS
As determined in accordance with provisions of the
CONSTITUTION
OF THE
STATE OF ALASKA
Following the official 1965 reapportionment by
Governor William A. Egan
SOLID LINES INDICATE SENATORIAL DISTRICTS (LETTERS)
BROKEN LINES INDICATE HOUSE DISTRICTS (NUMBERS) WITHIN SENATORIAL DISTRICTS
SENATE SEATS
DISTRICT E: 7 SEATS
DISTRICT I: 4 SEATS
ALL OTHER DISTRICTS: 1 SEAT EACH
HOUSE SEATS
DISTRICTS 1 & 4: 2 SEATS EACH
DISTRICT 8: 14 SEATS
DISTRICT 16: 7 SEATS
ALL OTHER DISTRICTS: 1 SEAT EACH
ALEUTIAN ISLANDS
12
G
17
16
I
J
18
15
19
K
7
D
8E
14
H
13
10
F
9
6
5
G
4
3
B
2
1
A
12
11
G

# LEGISLATIVE REAPPORTIONMENT IN THE STATES /1

(November, 1965 - May, 1966)

The following checklist shows that 33 states have now been reapportioned. In four additional states one house has been so apportioned: in one of these a plan for the other house is being challenged in the courts; and in three more, a temporary plan has been implemented. In five states reapportionment schemes for both houses await court approval, while eight states are operating with temporary plans.

## PLAN ADOPTED AND NO CURRENT LITIGATION

Alabama
Alaska (house only)
Arizona
Arkansas
California
Colorado
Connecticut
Idaho
Illinois
Indiana
Kansas (house only)
Kentucky
Louisiana (house only)
Maine
Maryland
Massachusetts
Missouri
Nebraska
Nevada
New Hampshire
New Mexico
New York
North Carolina
North Dakota
Oklahoma
Oregon /2
Rhode Island
South Carolina (house only)
South Dakota
Tennessee[1]
Utah
Vermont
Virginia
Washington
West Virginia
Wisconsin
Wyoming

## PLAN ADOPTED BUT LITIGATION OR COURT APPROVAL PENDING

Delaware
Florida
Louisiana (senate only)
Minnesota
Mississippi
Pennsylvania

## TEMPORARY LEGISLATIVE OR COURT PLAN

Alaska (senate only)
Georgia
Hawaii
Iowa
Kansas (senate only)
Michigan
Montana
New Jersey
Ohio
South Carolina (senate only)
Texas

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/1 Published by the Council of State Governments.
/2 Some litigation is yet pending; nevertheless, the basic plans have received court approval.

STATES IN WHICH THERE HAS BEEN NO CHANGE IN LEGISLATIVE REAPPORTIONMENT SINCE NOVEMBER 1965 ARE FOUND IN THE BACK OF THIS APPENDIX.

## ALASKA

On April 11 the Alaska superior court issued a memorandum opinion that (1) the governor had exceeded his constitutional authority in reapportioning the senate (2) the 1966 elections be held under the existing plan, and (3) a constitutional amendment for a valid reapportionment of the senate be adopted no later than December 1, 1967. The state supreme court reversed, in part, the superior court ruling and adopted the governor's plan of September 3, 1965, declaring it effective for the 1966 elections and thereafter until the constitution is amended to provide a permanent reapportionment plan for the senate (Wade v. Nolan, et al, decided May 20). A separate appeal from the April 11 ruling is pending with the federal court.

## ARIZONA

The federal court on February 2 reapportioned both houses of the Arizona legislature, reducing the house from 80 to 60 members, increasing the senate from 28 to 30 members, and providing for at-large elections except in Maricopa and Pima counties (Klahr v. Goddard). On March 14 the court issued a supplemental decree approving subdistricting plans for the two counties.

## ARKANSAS

On November 4 the federal court issued a memorandum opinion approving a reapportionment scheme for the general assembly, as submitted by the state board of apportionment (Yancey v. Faubus). The plan calls for 44 districts for the house and 25 for the senate. Intervenors' appeal to the U. S. supreme court that the 1965 plan failed to meet the "one-man, one-vote" requirements was denied February 28 (Crawford County Bar Association v. Faubus; Alexander v. Faubus).

## CALIFORNIA

The state supreme court on January 11 upheld the reapportionment of the California legislature, as adopted October 21 during the second 1965 special session. In doing so, the court overruled objections that the senate plan included two multi-member districts for San Francisco and the populous part of Alameda county and did not have such multi-member districts for other sections of the state (Silver v. Brown; Adams v. Brown).

## CONNECTICUT

On December 14 voters approved a new state constitution with provisions conforming with the 1965 reapportionment act. The senate consists of 30 to 50 members, the house from 125 to 225 members. Responsibility for future reapportionment, following each decennial federal census, is placed with the legislature or, should it fail, an eight-member legislative commission or, should it fail, a board comprised of two judges from the state superior court and one elector.

## DELAWARE

Sincock v. Gately is still pending in the federal court. The contested reapportionment plan, enacted by the Delaware legislature in 1964, is based wholly on straight population and provides single-member districts for both houses.

## FLORIDA

The federal court on December 23 declared the 1965 legislative reapportionment act (HB 19-XX) unconstitutional but allowed it to stand as an interim plan until 60 days following adjournment of the 1967 regular session (Sobel v. Adams; Swann v. Adams). On February 25 the U. S. supreme court ruled that the district court erred in approving the plan on an interim basis (Swann v. Adams). The legislature subsequently adopted another reapportionment scheme, HB 17-X (66), which was then approved by the federal court on March 19 (Swann v. Adams). Appeal has been lodged with the U. S. supreme court.

## GEORGIA

On March 25 the federal court rejected arguments that the Florida case Swann v. Adams required an immediate reapportionment of the Georgia legislature. (NOTE The court had previously accepted the 1965 house reapportionment plan as an interim measure but had ordered both houses reapportioned no later than the end of the 1968 regular session or May 1, 1968, whichever arrived first.) But the court did advance to May 1, 1967, the date by which further reapportionment must be accomplished (Toombs v. Fortson).

## HAWAII

On April 25 the U. S. supreme court reversed its lower court and accepted the interim scheme (HB 987) passed during the 1965 regular session to reapportion the senate and the existing house apportionment as temporary plans for use in the 1966 general elections and to continue until such time as a permanent plan is adopted (Burns v. Richardson, et al; Cravalho, et al v. Richardson, et al; Abe, et al v. Richardson, et al).

## IDAHO

The federal court on December 20 declared the Idaho reapportionment plan, enacted during a March, 1965 special session, unconstitutional and ordered at-large elections for both houses until constitutionally apportioned (Hearne v. Smylie). The legislature then enacted a new reapportionment plan during the third 1966 extraordinary session. The defendants from Hearne petitioned the federal court to dissolve the December 20 injunction which required at-large elections. When plaintiffs failed to respond to the petition, the court on April 1 granted the petition which, in effect, approved the new reapportionment plan.

## ILLINOIS

On December 8 a special bipartisan commission appointed by the governor filed its plan for new house districts with the office of the secretary of state. It became immediately effective for the 1966 elections, providing for three representatives elected at-large from each of 59 multi-member districts. There is no court action pending.

## INDIANA

On November 18 the federal court approved one of four alternate plans for the house and one of four alternates for the senate as adopted by the legislature in 1965 (Stout v. Bottorff; Grills v. Branigin).

## IOWA

In Davis v. Cameron the federal court deferred to the state district court which, in turn, on November 5 gave temporary approval to the interim apportionment scheme for both houses, enacted during the Iowa 1965 regular session. On April 15 the state supreme court declared the 1965 temporary plan sufficient to serve as an interim plan of apportionment until 1968. But the court also ruled that a combination of multi- and single-member districts could not be used for the same chamber (Kruidenier v. McCulloch). Defendants are expected to file a writ of certiorari with the federal court.

## KANSAS

On December 28 the senate apportionment was declared unconstitutional, although the federal court delayed the effective date of its ruling until April 1 (Long v. Avery). The court followed on February 24 with a decree that the legislature adopt a new senate plan no later than April 1, 1968 or, failing to do so, the court would order into effect its own plan or at-large elections. The state supreme court on March 23 approved the reapportionment plan (HB 504) for the lower house, adopted during a 1966 special session (Harris v. Anderson).

## MAINE

During the 1966 special session the legislature approved a proposed constitutional amendment providing for not less than 30 nor more than 40 senators. In the event the legislature failed to reapportion, the state supreme court would be entrusted with the duty. If the amendment is approved by the voters in November, the legislature in its 1967 session will have to establish lines for the districts which would take effect in the 1968 elections.

## MARYLAND

The lower state court on December 22 accepted a 1965 special session act (SB 5) to reapportion both houses of the Maryland legislature (Maryland Committee for Fair Representation, et al v. Tawes). The court also found another act of the 1965 special session (SB 8) violative of the equal protection clause of the 14th Amendment. The ruling was reaffirmed by the state court of appeals on January 11.

## MICHIGAN

The plan presented by the commission in 1964 was never explicitly ruled unconstitutional. But the state supreme court indicated its shortcomings insofar as compliance with the state constitution was concerned by instructing the commission on November 2 to prepare new plans within 60 days. However, the commission deadlocked. The court itself stalemated regarding the validity of the 1964 plan and, thus, issued seven separate opinions on March 9 (In Re Apportionment).

## MINNESOTA

On November 26 the state supreme court reversed its lower court and declared that the veto power existed with respect to apportionment legislation. Thus the governor's veto of the 1965 reapportionment act was upheld. But the court also noted that its decision was not intended to be an evaluation of the act (Duxberry, et al v. Donovan). On January 14, plaintiffs from Honsey v. Donovan petitioned the federal court to go ahead with preliminary plans for establishing new legislative districts for the 1966 elections. The judges denied the petition, noting that sufficient time existed for the legislature to reapportion.

The Minnesota legislature on May 9 enacted a reapportionment bill (SF 2) in special session providing 67 and 135 members, respectively, for the senate and house. On May 11 the governor vetoed the bill, charging population inequities and gerrymandering. But the legislature followed one week later with a new plan which was signed by the governor on May 20.

## MISSISSIPPI

On January 21 the federal court received briefs in Conner, et al v. Johnson. (This suit was filed October 19, 1965 challenging the 1963 reapportionment.)

## MISSOURI

During a special session in the fall of 1965, the legislature approved a proposed constitutional amendment to create a commission for reapportioning the house periodically. The amendment was approved by referendum January 14. New house districts were announced by the commission in March. (The senate had been reapportioned by a commission in the fall of 1965.)

## NEBRASKA

On January 25 the Nebraska supreme court upheld a 1965 reapportionment act (LB 925) which provided for crossing of county lines in forming districts (Carpenter v. State). Consequently the state withdrew its appeal to the U. S. supreme court on LB 628, a previously invalidated reapportionment act. The federal court followed on February 10 by dismissing litigation regarding the constitutionality of LB 925 in League of Nebraska Municipalities v. Marsh.

## NEVADA

On November 13 the legislature in special session passed a reapportionment bill which provided for a 20-member senate and 40-member house. The federal court approved the plan on March 21 (Dungan v. Sawyer).

## NEW HAMPSHIRE

Since the legislature had reapportioned both houses during its 1965 regular session, the federal court on December 2 dismissed Levitt v. Stark, et al, which had attacked the 1961 apportionment.

## NEW JERSEY

A constitutional convention began work on March 21 to draft new constitutional provisions for apportioning the legislature. It is to report in June, 1966.

## NEW MEXICO

The federal court on March 17 ruled that the senate reapportionment act, adopted in a 1966 special session, fell short of the "one-man, one-vote" requirements and issued its own plan establishing 39 senatorial districts (Beauchamp v. Campbell). The court increased the number of districts to 42 in an amended order dated March 31.

## NEW YORK

A commission appointed by the legislature reported a reapportionment plan in December, but the legislature failed to act on the issue by the court deadline. On February 23 the New York court of appeals assumed jurisdiction and appointed a five-member commission to prepare apportionment plans for both houses. One month later the court adopted the commission's report providing for a 57-member and 150-member senate and house, respectively.

## NORTH CAROLINA

The North Carolina legislature was ordered by the federal court to reapportion no later than January 31, 1966. The court warned that if the legislature failed the court would hand down its own plan in time for the 1966 primaries and elections (Drum, et al v. Seawell, et al, November 30). On January 14 the legislature adjourned a five-day special session after enacting bills to reapportion both houses. The federal district court accepted the plan on February 18 (Drum, et al v. Seawell, et al). And the U. S. supreme court on April 4 reaffirmed the decision.

## OHIO

On December 20 arguments were heard before the state court of appeals (10th district) re: King v. Rhodes. Plaintiffs contended that the members of the state apportionment board exceeded their power in reapportioning the Ohio legislature. The U. S. supreme court issued a per curiam opinion February 21 reaffirming its lower court ruling which had adopted the board's reapportionment plan and ordered it into effect on a temporary basis for the 1966 general elections (Nolan v. Rhodes, October, 1965).

## OREGON

An original mandamus proceeding commenced in the state supreme court December 9 as plaintiffs petitioned for a redistribution of the representatives from the subdistricts of Multnomah county (Portland). However the court refused granting relief until the legislature had had an opportunity to act (Cook, et al v. McCall, January 26).

## PENNSYLVANIA

On February 4 the Pennsylvania state court reapportioned the legislature, reducing the house from 209 to 203 members and leaving the senate at 50 members (Butcher v. Bloom). The federal court has subsequently been asked to review the state supreme court decision. Briefs were filed during April.

## RHODE ISLAND

After receiving two extensions to the original January 15 deadline, the 15-member legislative commission on March 28 filed its report. The legislature subsequently enacted separate bills providing for the reapportionment of each chamber. Both bills were vetoed by the governor. However, in each instance, the legislature overruled the vetoes. A general constitutional convention is now at work that will consider a permanent apportionment plan.

## SOUTH CAROLINA

The federal court on February 18 upheld the 1961 apportionment of the house, and approved the 1966 reapportionment plan for the senate as an interim measure for purposes of the next election only, and for a limited term of two years (O'Shields v. McNair, et al; Mungo v. McNair).

## TENNESSEE

On November 15 a three-judge federal court upheld the 1965 Tennessee legislative reapportionment act (Baker v. Carr). However, the chancery court at Nashville held unconstitutional that portion of the 1965 act which divided four urban counties into senatorial subdistricts (Williams v. Carr, March 7). An appeal is now pending with the state supreme court.

## TEXAS

Hainsworth v. Martin was vacated as moot by the court of civil appeals on November 15 in view of the enactment of the 1965 Texas apportionment act. On February 2 the federal court upheld the 1965 act (HB 195) as a valid interim plan of apportionment for the 1966 elections, but ordered the eleven flotorial districts revised no later than August 1, 1967 (Kilgarlin v. Martin).

## VERMONT

On November 18 the Vermont supreme court denied appeals aimed at blocking the November 23, 1965, special legislative election and at having the 1965 reapportionment acts declared null and void.

## WYOMING

On February 28 the U. S. Supreme court reaffirmed a federal court ruling that subdistricting of multi-member districts was not required (Harrison v. Schaefer).

# LEGISLATIVE REAPPORTIONMENT

# IN THE STATES /1

# (November 1965) /2

## ALABAMA

In summer, 1962, the federal court, after declaring the existing Alabama legislative apportionment unconstitutional, issued its own temporary plan (Sims v. Frink). On appeal the lower court was sustained by the supreme court in the now famous Reynolds v. Sims.

During 1965 regular session, the house approved a proposal which would have reapportioned the senate. This bill died on the senate calendar. The federal court later made it clear that the bill would have been insufficient inasmuch as it applied only to the upper chamber.

On September 23, the legislature reapportioned both houses during special session. The court on October 2 held the reapportionment of the senate constitutional but substituted its own scheme for the lower house to correct certain population discrepancies of the legislative version.

## COLORADO

Lucas v. Forty-Fourth General Assembly (1964) struck down a "little federal" plan that had been approved by the voters in preference to a straight population proposal. Meeting in 1964 special session, the legislature then enacted a plan using a population basis. This statute was challenged because of its provision for subdistricts in multi-member counties. After the state supreme court found for the plaintiffs, the 1965 general assembly passed a new apportionment act eliminating subdistricts and, shortly thereafter, the state supreme court dismissed all litigation.

## KENTUCKY

The Kentucky legislature successfully reapportioned itself in 1963 special session. No litigation is pending.

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/1 Published by the Council of State Governments.

/2 There has been no change in legislative reapportionment since November 1965 in the states in this listing.

## LOUISIANA

Meeting in special session, the legislature reapportioned the house in 1963 after the federal court declared that the existing apportionment violated the 14th Amendment (Daniel v. Davis).

Litigation has been pending since 1963 (Bannister v. Davis) to reapportion the senate; however, plaintiffs have not yet moved to bring the matter to a hearing on merits.

## MASSACHUSETTS

After the state supreme court declared existing house apportionment unconstitutional (Fishman v. White), the legislature realigned house districts in October, 1963. But reapportionment will be required again in 1966 following the new state census.

## MONTANA

Suit challenging apportionment of the Montana legislature was decided January, 1965 (Herweg v. Thirty-Nineth Legislative Assembly) when the federal court held both houses malapportioned.

However, the court stayed remedial action pending outcome of the 1965 regular session. When the legislature failed to report a new apportionment scheme, the court on August 6 announced its own plan for use in the 1966 elections and declared that its plan would remain in force until the legislature was properly apportioned.

## NORTH DAKOTA

As a result of longstanding litigation (Lien v. Sathre and Paulson v. Meier), the legislature reapportioned itself in the 1965 regular session. The act was declared unconstitutional by the federal court which on August 13 ordered into effect its own plan, to become effective with the 1966 elections (Paulson v. Meier).

The court plan is a slight modification of a proposal to the legislature by the Legislative Research Committee.

## OKLAHOMA

In Moss v. Burkhart, the federal court ruled the state legislature malapportioned and warned that if a new plan was not devised by March, 1963, the court would implement its own scheme. New measures were adopted by the legislature in 1963, but these also were invalidated by both the federal and state supreme courts. Extensive litigation finally was climaxed on July 31, 1964, when the federal court reapportioned both houses on a population basis.

## SOUTH DAKOTA

Both houses of the legislature were reapportioned on a population basis in 1961.

## UTAH

A federal court ordered the reapportionment of the state legislature in Petuskev v. Clyde. After the legislature enacted new plans during its 1965 regular session, the attorney general filed motion to dismiss all suits pending.

The plan, providing for 28 senators and 69 representatives, was approved by the federal court, excepting one section designed to allow senators elected in 1964 to complete their full terms.

## VIRGINIA

The reapportionment undertaken by the 1962 state legislature was declared unconstitutional by a federal court in Mann v. Davis. During a March, 1964 special session, the legislature enacted a new plan which a federal special three-judge court found acceptable, except that two of the house districts, each having one delegate, were ordered combined into a single district with two delegates.

Henrico County appealed to the U.S. supreme court asserting that the effect of being placed in a single district with the City of Richmond, rather than being made an independent district, was to give Richmond a voting power greater than Henrico and deprived the county of representation by its own citizens. On October 26, the High Court upheld the ruling of the special court.

## WASHINGTON

In Meyers v. Thigpen the U. S. supreme court affirmed a federal court decision that declared existing apportionment unconstitutional and enjoined further elections thereunder. On February 26, 1965, the legislature reapportioned itself and the federal court dismissed pending litigation.

## WEST VIRGINIA

After Robertson v. Hatcher declared existing apportionment unconstitutional, the legislature successfully reapportioned itself during 1964 extraordinary session.

## WISCONSIN

Following gubernatorial veto of three separate legislative apportionment acts and legislative failure to conform with an order to reapportion, the state supreme court issued its own scheme on May 14, 1964.

Upon resuming the 1965 regular session on October 4, the legislature considered several bills that would give statutory standing to the court plan. However, none of the proposals advanced to final passage and after one month the legislature adjourned until May 2, 1966.

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL / BOX 2170 — JUNEAU 99801

June 1, 1965

Mr. Felix Toner, Chairman
Advisory Reapportionment Board
Juneau, Alaska

Dear Mr. Toner:

You have asked the following questions:

1. May the Board create a multi-member legislative district in the Northwest?

2. May the Board include military personnel in population for apportionment purposes?

I will answer these questions in order.

1. Some residents of the Northwest have proposed that the Board establish a single legislative district in the Northwest, stretching from the Kuskokwim River in the south to Point Barrow in the north. Under the proposed plan a huge multi-member district would replace the single-member districts now used in the Northwest. All candidates for both the House and Senate would be required to run at large.

You have indicated that the Board is considering retaining multi-member districts in Anchorage and Fairbanks. The Board has decided that it would be practically impossible to divide these urban areas into single-member districts. The 1960 census gives population figures for enumeration districts which have no relationship in size or shape to apportionment of the area into single-member districts of approximately equal population. Also, it is obvious that last year's earthquake displaced large numbers of people from the major population centers of Anchorage. Since the Board must use 1960 census figures, it would only compound the inequities resulting from use of census figures rendered obsolete by the earthquake to attempt to establish single-member districts in Anchorage. We understand that for these reasons, the Board intends to retain multi-member districts in Anchorage and Fairbanks.

With the census data available it is possible, however, for the Board to establish single-member districts elsewhere in the State. Although the United States Supreme Court, in Forston v. Dorsey, 379 U.S. 433 (1965), upheld use of some multi-member districts in Georgia, the Court warned:

> "It might well be that, designedly or otherwise, a multi-member constituency apportionment scheme, under the circumstances of a particular case, would operate to minimize or cancel out the voting strength of racial or political elements of the voting population. When this is demonstrated, it will be time enough to consider whether the system still passes constitutional muster."

If the Board determines that a vast multi-member district in the Northwest would "minimize or cancel out the voting strength of racial or political elements of the voting population," it would be unconstitutional for the Board to create such a district.

A multi-member district in the Northwest might minimize or cancel out voting strength in several ways. For example, in a vast, sparsely-settled Northwest legislative district voters in several population centers might be able to elect most, if not all, of the entire Northwest's legislators. These voters would minimize or cancel out the voting strength of entire areas containing small, widely-scattered villages which could elect their own representatives if the Northwest were divided into single-member districts. In addition, voters in population centers located in one part of the district, which would stretch almost 800 air miles from the Kuskokwim to Point Barrow, might combine to prevent voters in other parts of the district from electing their unanimous choice. If voting strength of a minority of voters were minimized or cancelled out, vast areas of the Northwest would be without any effective representation in the legislature. It would be unconstitutional for the Board to create a multi-member district in the Northwest which would give rise to this type of discrimination.

In retaining multi-member districts in Anchorage and Fairbanks, the Board runs a risk that political or racial minorities in these areas will argue that use of multi-member districts minimizes or cancels out their voting strength. It is clear, however, that the Board plans to retain multi-member

districts in these urban areas only because of the practical impossibility of dividing the cities into single-member districts and, in the case of Anchorage, because of the inequities that would result from following pre-earthquake census figures. Since the Board has no reason to believe that use of multi-member districts in these two relatively compact urban areas would submerge political or racial minorities, it is improbable that use of these multi-member districts would be held unconstitutional.

2. Your second question is whether the Board may include military personnel in population for apportionment purposes. The Alaska Constitution, in Article VI, Section 3, states:

> "Reapportionment shall be based upon civilian population within each election district as reported by the census."

This clearly provides that military personnel are not to be included in population for apportionment purposes. Unless the United States Supreme Court declares this provision unconstitutional, it must be followed by the Board.

The United States Supreme Court has not held that military personnel must be included as part of the population base for apportionment purposes. It has not yet been asked to settle this specific issue. In Davis v. Mann, 377 U.S. 678 (1964), the Court discounted Virginia's argument that certain areas were not in fact under-represented because these areas contained large numbers of military personnel who were not domiciled in Virginia and did not vote there. The Court purported to answer this argument by stating that "discrimination against a class of individuals, merely because of the nature of their employment, without more being shown, is constitutionally impermissible." Whatever this statement means, it does not invalidate Alaska's constitutional provision excluding military personnel from the population base for apportionment purposes. Until the Supreme Court decides in explicit terms that such a provision is unconstitutional, the Board must follow Alaska's Constitution.

This was the approach taken by a federal district court in Holt v. Richardson, 33 U.S. Law Week 2443 (Feb. 17, 1965). Under Hawaii's Constitution, apportionment is based on the number of registered voters in the last general election. Since many military personnel are not Hawaii residents and do not vote there,

they are not counted for apportionment purposes. Plaintiffs argued that apportionment must be based on total population, including military personnel. The federal district court refused to invalidate the apportionment of Hawaii's House of Representatives because registered voters, and not total population, were used as a basis for apportionment. The Court stated its reason for holding that registered voters were a valid basis for representation:

> "Hawaii has become the United States' military bastion for the entire Pacific and military population in the State fluctuates violently as the Asiatic spots of trouble arise and disappear. If total population were to be the only acceptable criteria upon which legislative representation could be based, in Hawaii, grossly absurd and disastrous results would flow from a blind adherence to the 'elusive "one-person-one-vote"aphorism.' (Mr. Justice Harlan in Forston v. Tombs, 33 U.S. Law Week 4172)"

Military personnel accounted for about 10 percent of Hawaii's total population in 1960. Military personnel account for about 15 percent of Alaska's population. Alaska can point to the same inequities as does Hawaii if military personnel are included in population for apportionment purposes.

Even if the Board were to include military personnel who are Alaska residents in the population base, this would not affect representation under any possible apportionment plan. The military has informed us that just over 100 military personnel stationed in Alaska consider themselves Alaska residents. There is no method of determining how many military personnel vote in Alaska. However, since voting is one factor in determining residence, it is likely that military personnel who claim residence in states other than Alaska do not vote in Alaska. Most vote by absentee ballot in the state where they claim residence and for that reason, in many cases, they will be counted for apportionment purposes.

Until the United States Supreme Court holds that a constitutional provision excluding military personnel from

population for apportionment purposes is invalid, the Board must follow Alaska's provision and reapportion on the basis of civilian population only.

Very truly yours,

WARREN C. COLVER
ATTORNEY GENERAL

WCC/grg

HEADQUARTERS, ALASKAN COMMAND
APO SEATTLE 98742

To PA

16 April 1965

Mr. Felix J. Toner, Chairman
Reapportionment Advisory Board
P.O. Box 2534
Juneau, Alaska

Dear Mr. Toner:

Reference is made to my letter of April 1st and your letter of March 29th concerning the matter of military residents in Alaska.

A survey of military personnel records indicates that there are 111 Alaskan residents in the military forces stationed in Alaska. I must point out, however, that this cannot be considered an absolutely accurate figure, as military personnel records do not contain an entry showing what can be called a "legal residence" for voting purposes. The record shows only the place the person prefers to consider as his permanent home.

The Alaska resident personnel are scattered in several places with the greater number in the Anchorage area. It appears, however, the total is so small that it would have no effect on reapportionment action.

Sincerely,

HARRY A. WAKEFIELD
Lt Col, USAF
Chief, Public Affairs

# STATE REAPPORTIONMENT, ELECTORAL PERCENTAGES, 1966 ELECTIONS

| STATE | DATE LATEST REAPPORTIONMENT | | ELECTORAL PERCENTAGE* | | | | REAPPORTIONING BODY** | PARTY STRENGTHS | | | | 196[illegible]TION |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | HOUSE | | SENATE | | | UPPER HOUSE | | LOWER HOUSE | | |
| | HOUSE | SENATE | Old | New | Old | New | | Dem. | Rep. | Dem. | Rep. | |
| Alabama | 1965 | 1965 | 43.0 | 47.7 | 27.6 | 47.8 | Court, Legislature | 35 | 0 | 103 | 3 | Entire Legislature |
| Alaska | 1961 | 1965 | n.a. | 47.8 | 35.4 | 51.0 | Commission | 17 | 3 | 30 | 10 | One-half Upper House<br>Entire Lower House |
| Arizona | 1966 | 1966 | 45.8 | 49.1 | 12.8 | 49.1 | Court | 26 | 2 | 45 | 35 | Entire Legislature |
| Arkansas | 1965 | 1965 | 33.3 | 49.4 | 43.8 | 49.2 | Commission | 35<br>1 Vacancy | 0 | 100<br>3 Vacancies | 1 | Entire Legislature |
| California | 1965 | 1965 | 44.7 | 48.3 | 10.7 | 48.9 | Legislature | 25<br>2 Vacancies | 13 | 49 | 31 | Entire Legislature |
| Colorado | 1965 | 1965 | 45.3 | 46.8 | 46.9 | 47.5 | Legislature | 15 | 20 | 42 | 23 | One-half Upper House<br>Entire Lower House |
| Connecticut | 1965 | 1965 | 11.9 | 43.8 | 31.9 | 47.9 | Legislature | 23 | 13 | 111 | 189 | Entire Legislature |
| Delaware | 1964 | 1964 | 18.5 | n.a. | 22.0 | n.a. | Legislature | 13 | 3 | 30 | 3 | One-half Upper House<br>Entire Lower House |
| Florida | 1966 | 1966 | 26.9 | 47.8 | 15.2 | 48.4 | Legislature | 41 | 2 | 105 | 7 | Entire State Legislature |
| Georgia | 1965 | 1962 | 22.5 | 42.3 | 21.4 | 48.2 | Legislature | 41 | 9 | 198 | 7 | Entire Legislature |
| Hawaii | 1959 | 1965 | n.a. | 38.4 | 18.1 | n.a. | Legislature | 16 | 9 | 40 | 11 | Entire Legislature |
| Idaho | 1966 | 1966 | 32.7 | n.a. | 16.6 | n.a. | Legislature | 19 | 25 | 37 | 41 | Entire Legislature |
| Illinois | 1965 | 1965 | 28.7 | 49.1 | 39.9 | 50.4 | Commission, court | 23<br>2 Vacancies | 33 | 118<br>3 Vacancies | 59 | Entire Legislature |
| Indiana | 1965 | 1965 | 34.8 | 48.7 | 40.4 | 49.5 | Legislature | 35 | 13 | 75<br>3 Vacancies | 22 | Entire Legislature |
| Iowa | 1965 | 1965 | 26.9 | 44.8 | 35.2 | 45.1 | Legislature | | | | | |
| Kansas | 1966 | 1964 | 19.4 | 47.7 | 26.8 | 50.1 | Legislature | 34 | 25 | 101 | 23 | One-half Upper House<br>Entire Lower House |
| Kentucky | 1963 | 1963 | 34.1 | 44.8 | 47.0 | 46.6 | Legislature | 13 | 27 | 44 | 81 | Entire Lower House |
| Louisiana | 1963 | 1921 | n.a. | 33.1 | n.a. | 33.0 | Legislature | 25 | 13 | 64 | 36 | None |
| Maine | 1961 | 1961 | 30.7 | 40.0 | n.a. | 40.8 | Legislature | 39 | 0 | 103 | 2 | None |
| Maryland | 1965 | 1963 | 35.6 | 50.3 | 14.1 | 47.6 | Legislature | 29 | 5 | 81 | 70 | Entire Legislature |
| Massachusetts | 1965 | 1961 | n.a. | 43.3 | n.a. | 50.4 | Legislature | 22 | 7 | 117 | 23 | Entire State Legislature |
| | | | | | | | | 27 | 13 | 167<br>1 Ind.<br>3 Vacancies | 69 | Entire Legislature |
| Michigan | 1964 | 1964 | 44.0 | 52.0 | 29.0 | 52.0 | Court | 23 | 13 | 73 | 37 | Entire Legislature |
| Minnesota | 1966 | 1966 | 34.3 | 47.2 | 40.1 | 48.1 | Legislature | 24<br>Technically--a non-partisan Legislature | 43 | 53 | 79 | Entire Legislature |
| Mississippi | 1965 | 1965 | 29.1 | 41.2 | 34.6 | 37.4 | Legislature | 51 | 1 | 120 | 2 | None |
| Missouri | 1966 | 1965 | 20.3 | 49.8 | 47.7 | 52.0 | Commission | 22 | 12 | 123 | 40 | One-half Upper House<br>Entire Lower House |
| Montana | 1965 | 1965 | 30.6 | 49.0 | 16.1 | 46.9 | Court | 32 | 24 | 56 | 38 | Entire Legislature |
| Nebraska[1] | 1965 | | 44.0 | 49.3 | | | Legislature | Unicameral Legislature<br>40 Non-Partisan Seats | | | | Entire Legislature |
| Nevada | 1965 | 1965 | 20.4 | 46.8 | 8.0 | 49.7 | Legislature | 8<br>1 Other | 8 | 25 | 12 | Entire Legislature |
| New Hampshire | 1965 | 1965 | 44.0 | 45.2 | 49.8 | 52.3 | Legislature | 10 | 14 | 176 | 224 | Entire Legislature |

APPENDIX E

| STATE | DATE LATEST REAPPORTIONMENT | | ELECTORAL PERCENTAGE* | | | | REAPPORTIONING BODY** | PARTY STRENGTHS | | | | 1966 ELECTION |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | HOUSE | | SENATE | | | UPPER HOUSE | | LOWER HOUSE | | |
| | HOUSE | SENATE | Old | New | Old | New | | Dem. | Rep. | Dem. | Rep. | |
| New Jersey | 1964 | 1965 | n.a. | 46.5 | 19.0 | 47.0 | Legislature | 19 | 10 | 41 | 19 | None |
| New Mexico | 1965 | 1966 | 27.9 | 47.4 | 11.0 | 45.8 | Legislature, court | 28 | 4 | 59 | 10 | 15 Seats Upper House<br>Entire Lower House |
| New York | 1966 | 1966 | 49.3 | 49.2 | 49.4 | 49.1 | Commission (court) | 20 | 36<br>1 Vacancy | 90 | 75 | Entire Legislature |
| North Carolina | 1966 | 1966 | 27.1 | 47.3 | 47.1 | 48.8 | Legislature | 49 | 1 | 106 | 14 | Entire Legislature |
| North Dakota | 1965 | 1965 | 40.9 | 48.7 | 31.9 | 48.7 | Court | 20 | 29 | 65 | 44 | Entire Legislature |
| Ohio | 1965 | 1965 | 30.3 | 47.3 | 44.7 | 49.6 | Commission | 16 | 16 | 62 | 75 | Entire Legislature |
| Oklahoma | 1965 | 1965 | 29.4 | 48.7 | 24.5 | 49.2 | Legislature (court) | 41 | 7 | 78 | 21 | One-half Upper House<br>Entire Lower House |
| Oregon | 1961 | 1951 | n.a. | 48.1 | n.a. | 47.8 | Secretary of State | 19 | 11 | 28 | 32 | One-half Upper House<br>Entire Lower House |
| Pennsylvania | 1966 | 1966 | 42.7 | 47.0 | 43.4 | 50.1 | Court | 21 | 27<br>1 Vacancy | 116 | 93 | One-half of Senate<br>Entire Lower House |
| Rhode Island | 1966 | 1966 | 40.5 | n.a. | 18.1 | n.a. | Legislature | 30 | 15<br>1 Rep.-Ind. | 76 | 24 | Entire Legislature |
| South Carolina | 1961 | 1966 | n.a. | 46.2 | 23.3 | 48.0 | Legislature | 46 | 0 | 124 | 1 | One-half Upper House<br>Entire Lower House |
| South Dakota | 1965 | 1965 | 38.5 | 46.7 | 38.3 | 47.1 | Legislature | 16 | 29 | 30 | 45 | Entire Legislature |
| Tennessee | 1965 | 1965 | 44.5 | 48.4 | 39.7 | 49.1 | Legislature | 24 | 9<br>2 Vacancies | 74 | 24<br>1 Ind. | Entire Legislature |
| Texas | 1965 | 1965 | 38.7 | 47.0 | 30.3 | 49.4 | Legislature | 31 | 0 | 149 | 1 | Entire Legislature |
| Utah | 1963 | 1965 | 37.7 | 47.6 | 25.3 | 44.5 | Legislature | 15 | 12 | 39 | 30 | One-half Upper House<br>Entire Lower House |
| Vermont | 1965 | 1965 | 11.6 | 48.7 | 47.0 | 48.8 | Legislature | 6 | 24 | 35 | 115 | Entire Legislature |
| Virginia | 1961 | 1961 | 40.5 | 47.7 | 41.1 | 49.0 | Legislature | 37 | 3 | 89 | 11 | None |
| Washington | 1965 | 1965 | 28.0 | 46.7 | 35.6 | 47.6 | Legislature | 32 | 17 | 60 | 39 | One-half Upper House<br>Entire Lower House |
| West Virginia | 1961 | 1964 | 40.0 | 46.2 | 46.7 | 46.7 | Legislature | 27 | 7 | 91 | 9 | One-half Upper House<br>Entire Lower House |
| Wisconsin | 1964 | 1964 | 40.0 | 45.4 | 42.5 | 48.4 | Court | 13 | 20 | 52 | 46 | One-half Upper House<br>Entire Lower House |
| Wyoming | 1963 | 1965 | 35.8 | 46.5 | 24.1 | 47.4 | Legislature, court | 12 | 13 | 34 | 27 | Entire Legislature |

*The electoral percentage is the percentage of each state's population which is theoretically able to elect a majority of each chamber of the state legislature.*

**Where two bodies are listed, the first reapportioned the House and the second reapportioned the Senate.*

*†Unicameral legislature.*

*n.a. Not available.*

SOURCES: National Municipal League, Legislature Reference Service, Chamber of Commerce of the U.S., Congressional Quarterly.

# A LEGAL VIEW OF REAPPORTIONMENT
## A Cronology of Supreme Court Reapportionment and Voting Rights Decisions

CITY OF ROME vs. UNITED STATES, 64 L Ed 2nd 119, 100 S Ct. 1548 (1980) (GA - Local)

Voting Rights Act

Sec. 5 of the Voting Rights Act was not unconstitutional as exceeding Congress' power under the Fifteenth Amendment by prohibiting voting changes that have only a discriminatory effect; the Act, instead, being an appropriate means for carrying out Congress' power, under Sec. 2 of the Fifteenth Amendment to enforce the Amendment's Command that the right of United States citizens to vote shall not be denied or abridged on account of race, and the Act being consonant with all provisions of the Constitution.

CITY OF MOBILE vs. BOLDEN, 64 L Ed 2nd 47, 100 S. Ct. 1491 (1980) (AL - Local).

The city's at-large electoral system for city commissioners did not violate 14th and 15th Amendments and did not warrant replacing with a mayor council government.

Voting Rights Act

1. Since Negroes in the city registered and voted without hinderance, the court erred in holding that the 15th Amendment was violated by the at-large voting practice, since the 15th Amendment does not entail the right to have Negro candidates elected, but prohibits only purposefully discriminatory denial or abridgement by the government of the freedom to vote on account of race, color, or previous condition of servitude.

2. The courts below had erred in ruling that the 14th Amendment was violated by the at-large voting practice, since there can be no violation of the 14th Amendment's equal protection clause in regard to racial discrimination in voting if there is no purposeful discrimination in voting, and the evidence in the case at bar fell short of showing that the at-large voting practice was a purposeful device to further racial discrimination.

MISSISSIPPI vs. UNITED STATES, 444 U.S. 1050 62 L Ed 2nd 739 (1980) (MS - Leg)

Voting Rights Act

The statutory plan enacted in 1978 had the impermissible effect of diluting black voting strength.

NEVETT vs. SIDES, 571 F 2nd 209 (1979) (5th Cir. 1979) (AL - Local)

U.S. Court of Appeals At-Large Elections.

CLARK vs. MARENGO COUNTY, 469 F Supp. 1150 (1979) (AL - Local)

At-Large Districts

At-large scheme for elections of members of County Commission and County Board of Education cannot be held to be per se unconstitutional.

CONNOR vs. FINCH, 469 F Supp. 693 (1979) (MS - Leg)

Legislative reapportionment promulgated. Districts were drawn using federal census population, percent variance, percent black population, percent black voting age population.

DOUGHERTY COUNTY BOARD OF EDUCATION vs. WHITE, 439 U.S. 32 (1978) (GA - Leg)

Employee required to take a leave of absence to run for state Legislature.

Voting Rights Act

Sec. 5 of the Voting Rights Act must be given the broadest possible scope, encompassing the subtle as well as the obvious forms of discrimination.

WISE vs. LIPSCOMB, 437 U.S. 535 (1978) (TX - Local).

1. When the District Court invalidated the provisions of the Dallas city charter mandating Council elections, the city had the duty to devise a substitute plan rather than to leave the matter to the District Court.

2. No reason existed why the District Court was not entitled to consider the City Council's substitute plan under the principles applicable to legislatively adopted reapportionment plans.

3. The Council's ordinance should not be regarded as a court-ordered plan subject to a level of scrutiny more stringent than required by the Constitution.

Additional Opinion - Renquist, Burger, Stewart, Powell

The case at bar did not present, and the court did not decide, the question whether the use of multimember districts for city governments was unconstitutional as diluting the voting strength of racial groups.

UNITED STATES vs. BOARD OF COMMISSIONERS OF SHEFFIELD, 435 U.S. 110 (1978) (AL - Vote)

Voting Rights Act

Sec. 5 applied to all entities having power over any aspect of the electoral process within covered jurisdictions, not only to counties or to whatever units of state government performed the function as registering voters and, therefore, Sec. 5 required the city to obtain preclearance of a voting change even though it had never conducted voter registration.

UNITED JEWISH ORGANIZATIONS OF WILLIAMSBURG, INC. vs. CAREY, 430 U.S. 144 (1977) (NY - Leg)

Voting Rights Act

The Hasidic Jewish community sued, alleging that the state's use of racial criteria and quotas in developing a redistricting plan acceptable to the U.S. Justice Department, (65% non-white population majority) violated their rights. The U.S. Supreme court upheld a dismissal of their suit.

MORRIS vs. GRESSETTE, 432 U.S. 491 (1977) (SC - Leg - Senate)

Voting Rights Act

Is the USAG's decision not to object to a covered state's proposed change in its laws, submitted for his consideration under Sec. 5, subject to judicial review?

1. When the Attorney General failed to interpose a timely objection, a federal District Court did not have jurisdiction to review the Attorney Generals' action under Sec. 5.

2. Compliance with Sec. 5 is measured solely by the absence of a timely objection by the Attorney General.

BRISCOE vs. BELL (1977), 432 US 404 (TX - Vote)

Voting Rights Act

1. Under Sec. 4(b) of the Act, judicial review of coverage determinations by the Attorney General and the director of the census was absolutely barred, the only procedure available to Texas being a "bailout" suit under Sec. 4(a) to seek termination coverage.

2. In enacting Sec. 4(b), Congress acted within its "power to enforce the fourteenth and fifteenth amendments by appropriate legislation."

CONNOR vs. FINCH (1977), 431 US 407 (MS - Leg).

Population Variance

1. The District Court's reapportionment plan under which there were maximum population deviations of 16.5% in the Senate districts and 19.3% in the House districts were unconstitutional, and such a departure from constitutional requirements was not justified as reflecting deference to the state's historic respect for the integrity of county boundaries especially where

(a) the court had failed to identify any unique features of the state political structure to support the plan's more than de minimus variations,

(b) the court had been presented with a more statistically acceptable plan which fragmented fewer county boundaries.

Voting Dilution

2. With respect to challenges of the plan impermissibly diluting Negro voting strength, the court should either draw legislative districts that would be reasonably contiguous and compact, so as to eliminate suspicions that Negro voting strength was being impermissibly diluted or explain precisely why in a particular instance such a goal could not be accomplished.

KIRKSEY vs. BOARD OF SUPERVISORS OF HINDS COUNTY, MS (1977), 54 F 2nd 139 (Court of Appeals) (MS - Local).

Redistricting plan is constitutionally impermissible as racially discriminatory if it is racially motivated gerrymander or if it perpetuates existant denial of access by racial minority to political process. The court ordered a plan of voting districts for election of county officials by single member districts.

BEER vs. UNITED STATES, 425 U.S. 130 (1976) (LA - Local)

Multimember districts

Since the two at-large city councilmanic seats, having existed since 1954, could not be reviewed in a proceeding to obtain approval for the reapportionment plan under Sec. 5 of the Voting Rights Act, the plan could not be rejected solely because it did not eliminate the two at-large seats.

Voting Rights Act

The plan did not have the effect of denying or abridging the right to vote on account of race or color under Sec. 5 since under a prior plan, none of the five councilmanic districts had a clear Negro majority of registered voters and no Negro had been elected to the City Council but, under the plan for which approval had been sought, Negroes would constitute a majority of the

CONNOR vs. WALLER, 421 U.S. 656 (1975) (MS - Leg)

Voting Rights Act

Three judge panel, sitting for the U.S. District Court for the Southern District of Mississippi, erred in ruling the Mississippi statutes reapportioning the state legislature were not legislative enactments subject to federal approval pursuant to Sec. 5 of the Voting Rights Act.

CHAPMAN vs. MEIER, 420 U.S. 1 (1975) (ND - Leg - Sen)

Population Variance

A population variance of 20.14% between the largest and smallest Senate district could not be justified on the grounds of absence of electorally victimized minorities, the state's sparse population, the division of the state by a river or the goal of observing geographical and political boundaries, since none of such factors had been explicitly shown to necessitate the substantial population deviation ...

Multimember Districts

Absent persuasive justification, a federal court's reapportionment plan for a state legislature should avoid use of multimember districts, and should ordinarily achieve the goal of population equality with little more than de minimis variation.

TAYLOR vs. MCKEITHEN, 499 F 2nd 893 (1974) (LA - Leg)

Long history and continuing vitality of wards in voting districts in New Orleans entitled ward boundaries to respect in drawing district lines.

Constitution extends equal protection of the laws to people, not to interests.

WHITE vs. REGISTER, 412 U.S. 755 (1973) (TX - Leg - House)

Population Variance

House districts of 71,597 to 78,943 or 9.9% overall deviation plan upheld.

Multimember Districts

The court invalidated the use of two large multimember districts in two metropolitan counties because the Black and Chicano communities had been "effectively excluded from participation in the Democratic primary selection process".

population in two of the five districts and a clear majority of the registered voters in one of them, making it predictable that at least one and perhaps two Negroes could be elected to City Council. An impermissible effect is created whenever a reapportionment plan has the effect of diluting existing black voting strength.

EAST CARROLL PARISH SCHOOL BOARD vs. MARSHALL, 424 U.S. 636 (1976) (LA - Local)

Multimember districts

The Supreme Court's preference for single-member districts in court ordered apportionment plans is extended to districts in a local jurisdiction. The preclearance procedures of Sec. 5 of the Voting Rights Act were not applicable when a District Court adopted a reapportionment plan submitted to it by a local legislative body that was covered by the Act.

McGILL vs. GADSDEN COUNTY COMMISSION, 535 F 2nd 277 (1976) (FL - Local) (Court of Appeals)

At Large Districts

Plaintiff failed to establish that at-large voting scheme used to elect members of County Commission diluted black voting strength.

WHITE vs. REGISTER, 422 U.S. 935 (1975) (TX - Leg). (Follow-on case to White v. Weiser.)

The Texas Legislature adopted a single member redistricting plan for the multimember districts at question subsequent to WHITE vs. REGISTER. On direct appeal, the U.S. Supreme Court vacated the District Court judgment and remanded the case for further consideration.

CITY OF RICHMOND, VIRGINIA vs. UNITED STATES, 422 U.S. 358 (1975) (VA - Local)

Voting Rights Act

The effect of annexation did not deny or abridge the Negroes' right to vote in the postannexation community, since the fairly designed ward plan afforded them representation reasonably equivalent to their political strength in the enlarged community.

Multimember Districts, Racial Discrimination

In order to sustain a claim that multimember legislative districts are being used individiously to cancel out or minimize the voting strength of racial groups, it is not enough to show that the racial group allegedly discriminated against has not had legislative seats in proportion to its voting potential. Evidence must be produced to support findings that the political processes leading to nomination and election were not equally open to participation by the group in question - that its members had less opportunity than did other residents in the district to participate in the political processes and to elect legislators of their choice.

GAFFNEY vs. CUMMINGS, 412 U.S. 735 (1973) (CT - Leg)

Population Variance

Senate 83,441 to 84,973; total 1.81%

House 19,297 to 20,870; or 7.83%.

Plan upheld.

Partisan Gerrymandering

The plan was based on a "political fairness" principle, which was designed to reflect the relative strength of the major political parties, by creating a certain number "safe" of "safe" districts for each party and a certain number of "swing" districts.

Court Holdings

Minor deviations from mathematical equality among state legislative districts are insufficient to make out a prima facie case of invidious discrimination under the Equal Protection Clause.

The population variations in this case are so minor the state need not justify them.

The principle of "political fairness" is not invidiously discriminatory.

Congressional districts are to be judged by stricter deminimus standards than are state legislative districts.

GEORGIA vs. UNITED STATES, 411 U.S. 526 (1973) (GA - Leg)

Voting Rights Act

State reapportionment plans are specifically included in Sec. 5 preclearance requirements. Despite the lack of any affirmative finding by the Attorney

General to the effect that the reapportionment plan had a racially discriminatory purpose or effect, the Attorney General had properly promulgated and applied a regulation stating that the burden of proof was on the submitting party, and that the Attorney General would refrain from objecting only if his review of the material submitted satisfied him that the proposal change did not have a racially discriminatory purpose or effect.

MAHAN vs. HOWELL, 410 U.S. 315 (1973) (VA - Leg)

Population Variance

Legislative redistricting plans are not to be judged by the more stringent standards applicable to Congressional reapportionment, but judged against Equal Protection Clause.

Some divergences from a strict population standard are constitutionally permissible with respect to the apportionment of seats in either or both houses of a bicameral state legislature, where such divergences are based on legitimate considerations incident to the effectuation of a rational state policy.

Maintenance of political subdivision lines in the apportionment of legislative seats is not an irrational state policy; though such a policy, however rational, cannot be permitted to emasculate the goal of substantial equality of representation.

Tested by such standards, the population disparities among the House districts created by the Virginia General Assembly (+6.8% to -9.6% or 16.4% overall), though approaching tolerable constitutional limits, do not exceed them.

WHITE vs. WEISER, 412 U.S. 783 (1973) (TX - Cong)

Population Variance

458,581 to 477,856 for a spread of 4.1% is unconstitutional (2.43% & 1.70% average deviation among districts; .745% or 3,421 persons).

Although the percentage deviation in the legislative plan are smaller than those in Kirkpatrick & Wells, they were not "unavoidable" and the districts were not as mathematically equal as reasonably possible.

Avoidable variations must, if possible, be avoided.

Partisan Gerrymandering

The drawing of district boundaries, in a way that minimizes the number of contests between present incumbents, does not of itself establish invidiousness.

GOINES vs. HEISKELL, 362 F Supp. 313 (1973) (WV Leg - House) (U.S. District Court)

Population Deviation

16.179 maximum percentage population variance among the delegate districts was tolerable and acceptable, and did not violate "one man - one vote".

Multimember Districts

Statute apportioning membership in House of Delegates of the West Virginia Legislature did not arbitrarily discriminate against some voters and favor others in creating multimember districts.

67TH MINNESOTA STATE SENATE vs. BEENS, 406 U.S. 187 (1972) (MN - Leg)

Federal Court Intervention:

Insofar as possible, a federal court in reapportioning a state legislature should accommodate the relief ordered to the appropriate provisions of state constitutions and state statutes relating to the legislature's size.

In a federal district court action for reapportionment of a state's legislature, a court-imposed minor variation from the state's prescribed figures as to the proper size of the legislature, is permissible when the change is shown to be necessary to meet constitutional requirements; but cutting a state Senate's size almost in half and the House size by nearly 1/4 is more than a mere minor variation.

CONNOR vs. WILLIAMS, 404 U.S. 449 (1972) (MS - Leg)

Multimember Districts

The Supreme Court affirmed its preference for an emphasis upon single-member districts in court-ordered reapportionment plans.

ABATE vs. MUNDT, 403 U.S. 182 (1971) (NY - Local)

Population Variance

Population variances of 11,577 to 13,020 or +4.8% to -7.1%, or total of 11.9%, are constitutionally permissible in light of the absence of a built-in bias tending to favor any particular area or interest and the longstanding local governmental structures in which the towns and the county worked in close cooperation to provide overlapping public services.

WHITCOMB vs. CHAVIS, 403 U.S. 124 (1971) (IN - Leg)

Population Variance

Multimember districts

The use of multimember state legislative districts is not per se unconstitutional under the Equal Protection Clause, but is subject to challenge where circumstances of a particular case may operate to minimize or cancel out the voting strength of racial or political elements of the voting population.

Racial Discrimination

Minorities are not ipso facto and per se, entitled to representation in proportion to number or to relief even in multimember districts, based only on the fact of their racial or political minority.

ELY vs. KLAHR, 403 U.S. 108 (1971) (AZ - Leg)

Population Base

The use of voter registration as a basis is allowable only if it produces a "distribution of legislators not substantially different from that which would have resulted from the use of a permissible population basis".

Partisan Gerrymandering

Plan tried to insure inter alia, that no incumbent would run for re-election against another incumbent. Court held that "the incumbency factor has no place in any reapportionment or redistricting", and found "inapposite" the consideration of party strengths as a factor.

CONNOR vs. JOHNSON, 402 U.S. 690 (1971) (MS - Leg)

Multimember Districts

When U.S. District Courts are forced to fashion state legislative apportionment plans, "single-member districts are, as a general matter, preferable to large multimember districts".

PERKINS vs. MATTHEWS, 400 U.S. 379 (1971) (MS - Local)

Voting Rights Act

Definitional refinement of Sec. 5.

Any change in election procedure, no matter how small, is subject to Sec. 5 scrutiny.

The local district courts do not have jurisdiction to review Sec. 5 cases; only the U.S. Attorney General and the U.S. District Court for the District of Columbia may review these cases.

OREGON vs. MITCHELL, 400 U.S. 112 (1970) (OR - Elections)

Federally imposed voting eligibility requirements:

Congress has the right to establish national standards for voting eligibility in federal elections.

The provision lowering the minimum voting age from 21 to 18 was valid as applied to federal elections.

Congress could not lower the voting age from 21 to 18 in state and local elections.

The provision suspending the use of literacy tests for both federal elections and state and local elections is valid.

Provisions pertaining to residency requirements and absentee registration and voting in a presidential and vice presidential election are valid.

HADLEY vs. JUNIOR COLLEGE DISTRICT, 397 U.S. 50 (1970) (MO - Local)

Population Variance

Population equality is necessary in a consolidated junior college district from which trustees are elected.

GASTON COUNTY vs. UNITED STATES, 395 U.S. 285 (1969) (NC - Local)

Voting Rights Act

The District Court could properly consider the county's practice of educational discrimination in determining whether its literacy test had the effect of discriminatorily denying the franchise.

It was not clearly erroneous for the District Court to conclude that the county had not met the burden of proving that the education it provided had no such discriminatory effect.

Adult Negroes who had received inferior education were discriminatorily affected by the use of this literacy test, despite impartial administration of

the voting registration law and recent progress toward equalizing and integrating the county's school system. Educational levels can have some effect on the voting regulations under Sec. 5.

MOORE vs. OGILVIE, 394 U.S. 814 (1969) (IL - Elections)

Election Nomination Procedures

A state statute providing that the 25,000 or more signatures of qualified voters prescribed for nominating petitions of independent candidates for offices to be filled by voters at large must include the signatures of 200 qualified voters from each of at least 50 of the 102 counties in the state; notwithstanding that it was designed to require a statewide support for launching a new political party rather than support from a few localities, violates the equal protection clause of the 14th Amendment in that it applies a rigid, arbitrary formula to sparsely settled counties and populous counties alike, contrary to the constitutional theme of equality among citizens in the exercise of their political rights, discriminates against the residents of the populous counties in favor of rural sections ...

WELLS vs. ROCKEFELLER, 394 U.S. 542 (1969) (NY - Cong)

Population Variance

A difference of +435,000 to -390,000 is unconstitutional.

Community of Interest

To accept population variances, large or small, in order to create Congressional election district with specific interest orientations, is antithetical to the basic premise of the constitutional command to provide equal representation for equal numbers of people.

KIRKPATRICK vs. PREISLER, 394 U.S. 526 (1969) (MO - Cong)

Population Variance

Districts varying in population from 420,000 to 445,000 were unconstitutional. "Limited population variances among Congressional districts are constitutionally permissable only if they are unavoidable despite a good-faith effort to achieve absolute equality or if justification for them is shown".

There is no de minimus standard for congressional districting.

Acceptable reasons must justify each variance, no matter how small.

Unacceptable justifications include:

- o avoided fragmenting areas with distinct economic and social interests;
- o a reasonable legislative compromise resolving practical political problems;
- o adjustments made on eligible voter population done on a haphazard basis;
- o projected population shifts not applied systematically geographic compactness.

ALLEN vs. STATE BOARD OF ELECTIONS, 393 U.S. 544 (1969)
(MS,VA - Local)

Voting Rights Act

Approval requirements of Sec. 5 were applicable to:

- o changes from district voting to at-large voting for county supervisors;
- o changes making the office of county superintendent of education from an elective to an appointive one in certain counties;
- o increasing the requirements for an independent candidate to gain position on a general election ballot; and
- o a bulletin issued by the State Board of Elections outlining new procedures for casting write-in votes.

AVERY vs. MIDLAND COUNTY TEXAS, 390 U.S. 474 (1968) (TX - Local)

County Precincts, Population Variance

One-man, one-vote appliesd to local units of government.

LUCAS vs. RHODES, 389 U.S. 212 (1967) (OH - Cong)

Population Variance

Unofficial population popul[illegible]on statistics are insufficient to justify the disparity among districts because they are too unreliable and not available for all areas. However, seven years after the initial census count such figures may be used.

KILGARLIN vs. HILL, 386 U.S. 120 (1967) (TX - Leg - House)

Population Variance

54,384 to 71,301, or +14.84% to -11.64%.

The Supreme Court accepted the ruling of the District Court sustaining the allocation of a representative to a smaller but more rapidly growing district.

Multimember Districts

The use of multimember and/or flaterial districts in state legislative reapportionment plans is not unconstitutional per se.

DUDDLESTON vs. GRILLS, 385 U.S. 455 (1967) (IN - Leg)

Case remanded to District Court in light of: SWANN vs. ADAMS, WESTBERRY vs. SANDERS, and REYNOLDS vs. SIMS

SWANN vs. ADAMS, 385 U.S. 440 (1967) (FL - Leg)

Population Variance Senate: +15.09; -10.56; House: +18.28; -15.27. Deviations are unconstitutional.

KATZENBACH vs. MORGAN, 384 U.S. 641 (1966) (NY - Elections)

Voting Rights Act

Sec. 4 (e) - barring English language proficiency and literacy tests as a condition of voting is constitutional.

BURNS vs. RICHARDSON, 384 U.S. 73 (1966) (HI - Leg)

Population Base

Hawaii's use of a registered voter base is upheld only because on this record it produced a distribution of legislators not substantially different from that which would have resulted from the use of a state citizen population base or another permissible population base.

Multimember Districts

The equal protection clause does not require that at least one house of a bicameral state legislature consist of single-member legislative districts.

Partisan Gerrymandering

Drawing district boundaries "in such way that minimizes the number of election contests between present incumbents does not in and of itself establish invidious discrimination".

of the state's population would elect a majority.

House: 21,825 to 95,064 + 40.5% of the state's population would elect a majority.

MARYLAND COMMITTEE FOR FAIR REPRESENTATION vs. TAWES, 377 U.S. 656 (1964) (MD - Leg)

Population Variance

Neither house, even after the reapportionment, was apportioned sufficiently on a population basis to be constitutionally sustainable. House: 6,541 to 37,879 and 35.6% of the state's population would elect a majority. Senate: 15,481 to 492,428 and 14.1% of the state's population would elect a majority.

WMCA, INC. vs. LOMENZO, 377 U.S. 633 (1964) (NY - Leg)

Population base

Case upheld New York's use of a citizen population base which excluded resident aliens.

Population Variance

Apportionment based on 1960 figures. State Assemblymen representing 37.5% of the state's citizens, and Senators representing 38.1% of the state's citizens, would constitute a majority in each chamber. Population in Assembly districts would vary from 14,974 to 190,343. Population in Senate districts would vary from 162,840 to 425,000. Population variance unconstitutional.

REYNOLDS vs. SIMS, 377 U.S. 533 (1964) (AL - Leg)

The equal protection clause requires that the seats in both houses of a bicameral state legislature be apportioned on a population basis.

Some deviations from the equal-population principle are constitutionally permissible, with respect to either or both houses of a state legislature, so long as such deviations are based on legitimate considerations incident to the effectuation of a rational state policy.

WESBURY vs. SANDERS, 376 U.S. 1 (1964) (GA - Cong)

Population Variance

The federal Constitution requires that Congressmen be chosen by "the people of

GERMANO vs. KERNER, 378 U.S. 560 (1964) (IL - Leg)

Population variance unconstitutional.

NOLAN vs. RHODES, 378 U.S. 556 (1964) (OH - Leg)

Population variance unconstitutional.

WILLIAMS vs. MOSS, 378 U.S. 558 (1964) (OK - Leg)

Population variance unconstitutional.

MEYERS vs. THIGPEN, 378 U.S. 554 (1964) (WA - Leg)

Population variance unconstitutional.

LUCAS vs. FORTY-FOURTH GENERAL ASSEMBLY OF THE STATE OF COLORADO, 377 U.S. 713 (1964) (CO - Leg)

Population Variance

Population variance in the state Senate was unconstitutional. 19,983 to 71,871 +33.2% with the maximum population.

Variance ratio in House 1.7:1 & 45.1% to elect a majority.

ROMAN vs. SINCOCK, 377 U.S. 695 (1964) (DE - Leg)

Population Variance

Population variance in both reapportionments were unconstitutional.

Senate: 4,177 to 64,820 + 22%; 4,177 to 64,820 + 21%

House: 1,643 to 58,228 + 18.5%; 1,643 to 20,040 + 28.0%

DAVIS vs. MANN, 377 U.S. 678 (1964) (VA - Leg)

Population Variance

Population variance was unconstitutional. Senate: 61,730 to 163,401 + 41.1%

SOUTH CAROLINA vs. KATZENBACH, 383 U.S. 301 (1966) (SC - Elections)

Voting Rights Act

The Voting Rights Act is upheld as constitutional.

WMCA INC. vs. LOMENZO, 382 U.S. 4 (1965), 238 F. Supp. 916 (NY - Leg)

Population Base

Apportionment on citizen population does not violate the federal Constitution. Partisan "gerrymandering" may (not) be subject to federal constitutional attack under the Fourteenth Amendment.

FORTSON vs. DORSEY, 379 U.S. 433 (1965) (GA - Leg)

Multimember Districts

Absent any contention that there was not substantial equality of population among the districts, or evidence to support the assertion that the scheme was intended to minimize or cancel out the voting strength of racial or political elements of the voting population, a statute creating multimember districts is constitutional.

HILL vs. DAVIS, 378 U.S. 565 (1964) (IA - Leg)

Population variance unconstitutional.

PINNEY vs. BATTERWORTH, 378 U.S. 564 (1964) (CT - Leg)

Population variance unconstitutional.

HEARN vs. SMYLIE, 378 U.S. 563 (1964) (ID - Leg)

Population variance unconstitutional.

MARSHALL vs. HARE, 378 U.S. 561 (1964) (MI - Leg)

Population variance unconstitutional.

the several states" which requires that, as nearly as practicable, one man's vote in a Congressional election must be worth as much as another's. Near mathematical precision in Congressional redistricting is necessary under the Equal Protection Clause of the Fourteenth Amendment.

GRAY vs. SANDERS, 372 U.S. 368 (1963) (GA - Elections)

County unit system in counting votes in Democratic primary for nomination of U.S. Senator violated the Equal Protection Clause of the Fourteenth Amendment.

County unit system cannot be equated to states in conducting elections and, therefore, the Equal Protection Clause requires that every voter is equal to every other voter in the state when he casts his ballot in a statewide election.

BAKER vs. CARR, 369 U.S. 186 (1962) (TN - Leg)

Federal Courts have jurisdiction in such political questions as legislative malapportionment, which violates the Equal Protection Clause of the Fourteenth Amendment.

GOMILLION vs. LIGHTFOOT, 364 U.S. 399 (1960) (AL - Local)

Prescribed racial gerrymandering under the Fifteenth Amendment; held Fourteenth Amendment to be inapplicable.

COLGROVE vs. GREEN, 328 U.S. 549 (1946)

Congressional districting held to be a non-justiciable political issue

# State Profiles




The Council of State Governments

TABLE OF CONTENTS


| STATE | DATE | PAGE |
|---|---|---|
| Alabama | March, 1981 | 1 |
| Alaska | May, 1981 | 3 |
| Arizona | May, 1981 | 5 |
| Arkansas | May, 1981 | 7 |
| California | May, 1981 | 9 |
| Colorado | May, 1981 | 11 |
| Connecticut | May, 1981 | 13 |
| Delaware | March, 1981 | 15 |
| Florida | May, 1981 | 17 |
| Georgia | May, 1981 | 19 |
| Hawaii | March, 1981 | 21 |
| Idaho | May, 1981 | 23 |
| Illinois | May, 1981 | 25 |
| Indiana | May, 1981 | 27 |
| Iowa | March, 1981 | 29 |
| Kansas | May, 1981 | 31 |
| Kentucky | May, 1981 | 33 |
| Louisiana | March, 1981 | 35 |
| Maine | May, 1981 | 37 |
| Maryland | May, 1981 | 39 |
| Massachusetts | March, 1981 | 41 |
| Michigan | March, 1981 | 43 |
| Minnesota | March, 1981 | 45 |
| Mississippi | May, 1981 | 47 |
| Missouri | May, 1981 | 49 |
| Montana | March, 1981 | 51 |
| Nebraska | May, 1981 | 53 |
| Nevada | May, 1981 | 55 |
| New Hampshire | May, 1981 | 57 |
| New Jersey | May, 1981 | 59 |
| New Mexico | May, 1981 | 61 |
| New York | March, 1981 | 63 |
| North Carolina | May, 1981 | 65 |
| North Dakota | May, 1981 | 67 |
| Ohio | May, 1981 | 69 |
| Oklahoma | March, 1981 | 71 |
| Oregon | March, 1981 | 73 |
| Pennsylvania | May, 1981 | 75 |
| Rhode Island | March, 1981 | 77 |
| South Carolina | March, 1981 | 79 |
| South Dakota | May, 1981 | 81 |
| Tennessee | March, 1981 | 83 |
| Texas | May, 1981 | 85 |
| Utah | May, 1981 | 87 |
| Vermont | May, 1981 | 89 |
| Virginia | May, 1981 | 91 |
| Washington | May, 1981 | 93 |
| West Virginia | May, 1981 | 95 |
| Wisconsin | May, 1981 | 97 |
| Wyoming | May, 1981 | 99 |

# ALASKA

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article VI, Sections 1-11

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Reapportionment Board

Chairman
John Schaeffer

Established in 1959
5 members appointed by the Governor without regard to political affiliation. Members cannot be public officials or employees.

CONGRESSIONAL DISTRICTS: One Congressman

### STAFF CONTACT

Karen J. Ward
Executive Director
Reapportionment Board
Pouch A
Juneau, AK 99811
(907) 465-3520

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 - Within 90 days following release of census count the Reapportionment Board must submit its plan to the Governor who then has 90 days to issue a proclamation about the plan. (Preliminary plan was released on May 5, 1981. Final plan to be released June 10, 1981).

POPULATION. Federal census

POPULATION GROUPS EXCLUDED Non-resident military personnel and dependents

SMALLEST UNIT OF POPULATION: Enumeration districts

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Socio-economic areas, local government boundaries, contiguity, compactness

DEVIATION: Maximum combined deviation - 10 %

TYPE OF DISTRICT: Single member and multimember; candidates in two-member districts should run in designated seats

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Yes

# ALASKA

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators may be required to run for reelection if the new district boundaries substantially change the constituency in the district

VOTING RIGHTS STATE: Yes

NEW OR REVISED DISTRICTS BEFORE 1990: No

## COMPUTER ASSISTANCE FOR APPORTIONMENT

None used in 1981

## COURT WITH ORIGINAL JURISDICTION

State Superior Court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# ARIZONA

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

No constitutional provision

### STATUTORY PROVISIONS

Arizona Revised Statutes (ARS) Sections 16-1101 through 16-1103

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Joint Select Committee on Reapportionment and Redistricting

Chairman
Sen. John C. Pritzlaff, Jr. (R)

CONGRESSIONAL DISTRICTS: Same

### STAFF CONTACT

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Richard Collins
Research Director
House of Representatives
State Capitol
Phoenix, AZ 85007
(602) 255-5544

Greg Fahey
Staff Director
Senate
State Capitol
Phoenix, AZ 85007
(602) 255-4471

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: In advance of the 1982 general election. Special legislative session on reapportionment anticipated in fall 1981.

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Blocks

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: Not required under current state law

OTHER CRITERIA FOR DRAWING DISTRICTS: Race or ethnic characteristics; geographic factors; other factors yet to be determined by the joint committee

DEVIATION: General consensus: less than 2.0% if possible

TYPE OF DISTRICT: 30 legislative districts, one senator and two house members from each district

# ARIZONA

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Yes

SENATORS ELECTED IN STAGGERED TERMS: No

VOTING RIGHTS STATE: Yes

NEW OR REVISED DISTRICTS BEFORE 1990: Yes

## COMPUTER ASSISTANCE FOR APPORTIONMENT

Datapol
3118 West Thomas Road
Phoenix, AZ 85017

## COMPUTER CONSULTANT

Mr. C. Howard Wilson
Room 443, Legislative
Services Wing
State Capitol
Phoenix, AZ 85007

## COURT WITH ORIGINAL JURISDICTION

Federal District Court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

Klahr v. Williams, 388 F. Supp. 1007 1974)

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

Currently in preparation

# ARKANSAS

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Amendment 23, Amendment 45

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Board of Apportionment

Governor | Secretary of State | Attorney General

CONGRESSIONAL DISTRICTS: Legislature

Senate State Agencies and Governmental Affairs Committee

Senate Chairman
Sen. Morrell Gathright (D)

House State Agencies and Governmental Affairs Committee

House Chairman
Rep. Charles W. Stewart (D)

### STAFF CONTACT

Janet Reddin
Office of the Secretary of State
256 State Capitol
Little Rock, AR 72201
(501) 370-5070

William Beathea
Legislative Aide
Office of the Governor
State Capitol
Little Rock, AR 72201
(501) 371-2345

Ms. Donna Davis
Arkansas Legislative Council
315 State Capitol Building
Little Rock, AR 72201
(501) 371-1937

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: On or before February 1, immediately following each Federal census

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: No

SMALLEST UNIT OF POPULATION: Unknown

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: Yes

OTHER CRITERIA FOR DRAWING DISTRICTS: Unknown

DEVIATION: Unknown

TYPE OF DISTRICT: Senate - single member; House - single member, multimember

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be required to run for reelection

# ARKANSAS

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: No

## COMPUTER ASSISTANCE FOR APPORTIONMENT

University of Arkansas - Industrial Research and Extension Center

## COURT WITH ORIGINAL JURISDICTION

No one court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

## CONGRESSIONAL REDISTRICTING

Act 965 (1981)
Creates 4 congressional districts -
Ideal district: 571,378
Largest district: 575,485 or +.72%
Smallest district: 564-818 or -.01%

# CALIFORNIA

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article IV, Section 6

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Senate Elections and Reapportionment Committee

Senate Chairman
Sen. Daniel E. Boatwright (D)

Assembly Elections and Reapportionment Committee

Assembly Chairman
Asmb. Richard Alatorre (D)

CONGRESSIONAL DISTRICTS: Same

### STAFF CONTACT

Alan Rosin
Staff Director
Senate Elections and Reapportionment Committee
State Capitol
Sacramento, CA 95814
(916) 445-9018
445-3375

Stephen March
Senior Consultant
Senate Elections and Reapportionment Committee
State Capitol
Sacramento, CA 95814

Dr. Bruce Cain
Consultant
Assembly Elections and Reapportionment Committee
Room 4001, State Capitol
Sacramento, CA 95814
(916) 445-7644

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981-82. The first session following each decennial Federal census

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: No

SMALLEST UNIT OF POPULATION: Census tracts and block groups

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: Not generally

OTHER CRITERIA FOR DRAWING DISTRICTS: Party registration; compactness, race and ethnic characteristics, geographical factors; election information

DEVIATION: Less than 1.0%

TYPE OF DISTRICTS: Single member

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

# CALIFORNIA

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be allowed to serve out their term

VOTING RIGHTS STATE: Yes - Kings; Merced; Monterey, Yule counties

NEW OR REVISED DISTRICTS BEFORE 1990: Can be done but will probably not be done

## COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes

## COURT WITH ORIGINAL JURISDICTION

State Supreme Court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

## CURRENT LITIGATION

CASE NAME CASE NUMBER

## DISTRICT MAPS

# COLORADO

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article V, Sections 44-48

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Colorado Reapportionment Commission

Established in 1974
11 members: 1 each by speaker, majority leader in Senate, minority leader in each House; 3 by governor, 4 by chief justice of Supreme Court; limit 4 legislators; limit 6 same political party; limit 4 same congressional district; 1 must reside West of Continental Divide

CONGRESSIONAL DISTRICTS: Legislature

Senate State Affairs Committee

Senate Chairman
Sen. Ted L. Strickland (R)

House State Affairs Committee

House Chairman
Rep. Frank De Filippo (R)

### STAFF CONTACT

Lyle C. Kyle
Director
Colorado Legislative Council
Room 46, State Capitol Building
Denver CO 80203
(303) 839-3521

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: About January 30, 1982 or 180 days after the convening of the Reapportionment Commission. Final plan must be approved by the State Supreme Court by March 15, 1982

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Blocks

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, race and ethnic characteristics, geography, "community of interest"

DEVIATION: 5% from most populous to least populous

TYPE OF DISTRICT: Single member

# COLORADO

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be allowed to serve out term

VOTING RIGHTS STATE: Yes - El Paso County only

NEW OR REVISED DISTRICTS BEFORE 1990: No

## COMPUTER ASSISTANCE FOR APPORTIONMENT

State Computer System

## COURT WITH ORIGINAL JURISDICTION

Colorado Supreme Court must automatically review plan

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

Title 2, Article 2, Part 1 and 2 Colorado Revised Statutes 1973 parts 1 and 2

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# CONNECTICUT

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article XII of the Amendments to the Constitution

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Committee on Reapportionment

Chairman:
Not yet selected

By August 1, 1981, a 2/3 vote in each chamber is required to approve a redistricting plan. If the legislature cannot complete the plan by the deadline, a Commission of 9 members is appointed: 2 each by the Senate President Pro Tem, House Speaker and the Minority Leaders of each party, all from the two major political parties and a 9th member selected by the eight within 30 days. The Commission by at least a 5 to 6 vote must submit its plan by October 30, 1981. If no plan is submitted, by petition of a registered voter, the state Supreme Court must file a plan by January 15, 1982 or rule on the petition submitted to it.

CONGRESSIONAL DISTRICTS: Same

### STAFF CONTACT

Mr. Jan Majewski
Coordinator
Special Joint Committee
on Reapportionment
Vault 4, State Capitol
Hartford, CT 06115
(203) 566-8308

Mr. Harry Hutton
Coordinator
Special Joint Committee
on Reapportionment
Vault 6, State Capitol
Hartford, CT 06115
(203) 566-7429

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 - 1982

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Census blocks and Ed's

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: Yes

OTHER CRITERIA FOR DRAWING DISTRICTS: Contiguous and single member districts

DEVIATION: Unknown

TYPE OF DISTRICT: Single member

# CONNECTICUT

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Some

SENATORS ELECTED IN STAGGERED TERMS: No

VOTING RIGHTS STATE: Yes - Groton, Mansfield, Southbury Towns

NEW OR REVISED DISTRICTS BEFORE 1990: Yes

## COMPUTER ASSISTANCE FOR APPORTIONMENT

Market Opinion Research
Detroit, Michigan

## COURT WITH ORIGINAL JURISDICTION

State Supreme Court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# FLORIDA

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article III, Sections 1, 15, 16

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature/State Supreme Court

Senate Rules and Calendar Committee

Senate Chairman
Sen. Dempsey J. Barron (D)

House Select Committee on Reapportionment

House Chairman
Rep. Lee Moffitt (D)

CONGRESSIONAL DISTRICTS: Same

### STAFF CONTACT

Terri Jo Kennedy
Staff Director
Senate Rules and Calendar Committee
Suite 409, State Capitol
Tallahassee, FL 32304
(904) 488-5810

Mark Herron
Staff Director
House Select Committee on Reapportionment
Room 223, State Capitol
Tallahassee, FL 32304
(904) 488-9622

### PROPOSED CRITERIA FOR LEGISLATIVE APPORTIONMENT

DATE: End of 1982 Legislative session; no plan, Governor must convene a special session; no plan, state Supreme Court has 60 days to formulate a plan

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Voting precincts

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: State geographical factors, political boundaries

DEVIATION: No decision

TYPE OF DISTRICT: Single member and multimember districts

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be required to run for reelection

# FLORIDA

VOTING RIGHTS STATE: Yes - Collier, Hardee, Hendry, Hillsborough Monroe Counties

NEW OR REVISED DISTRICTS BEFORE 1990: No

## COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - Legislative Data Processing Center

## COURT WITH ORIGINAL JURISDICTION

State Supreme Court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

## CURRENT LITIGATION

CASE NAME CASE NUMBER

None

## DISTRICT MAPS

# GEORGIA

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article III, Section II, paragraph 1, Section II, paragraph 1

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

| Senate Reapportionment Committee | House Legislative and Congressional Reapportionment Committee |
|---|---|
| Senate Chairman<br>Sen. Perry J. Hudson (D) | House Chairman<br>Rep. Joe Jack Wilson (D) |

### STAFF CONTACT

Linda Meggers
Legislative Reapportionment Associate
Institute of Government
State Capitol
Atlanta, GA 30334
(404) 656-5063

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: No specific date - 1981

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Blocks

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, race or ethnic characteristics, geographic factors, political boundaries

DEVIATION: 5.0% to 9.9%

TYPE OF DISTRICT: Senate - single member; House - single member, multimember

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: No

VOTING RIGHT STATE: Yes

NEW OR REVISED DISTRICTS BEFORE 1990: Yes

# GEORGIA

## COMPUTER ASSISTANCE FOR APPORTIONMENT

Institute of Government - University of Georgia

## COURT WITH ORIGINAL JURISDICTION

Superior Court of each county

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# IDAHO

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article 3, Sections 2, 4

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislative

| Senate State Affairs Committee | House State Affairs Committee |
|---|---|
| Senate Chairman<br>Sen. Leon H. Swenson (R) | House Chairman<br>Rep. George G. Danielson (R) |

CONGRESSIONAL DISTRICTS: Same

### STAFF CONTACT

Susan Bennion
Legislative Council
Room 334
State Capitol Building
Boise, ID 83720
(208) 334-2475

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: No specific date - 1981 or 1982; Governor will call special legislative session on reapportionment to convene July 7

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: Unknown

SMALLEST UNIT OF POPULATION: Voting precincts

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: Yes for some counties

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, geography

DEVIATION: 10.0% to 14.9%

TYPE OF DISTRICT: Senate - single member; House - multimember

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Yes - Legislative districts elect one senator and two representatives

SENATORS ELECTED IN STAGGERED TERMS: No

VOTING RIGHTS STATE: Yes - Elmore County only

# IDAHO

NEW OR REVISED DISTRICTS BEFORE 1990: Yes

## COMPUTER ASSISTANCE FOR APPORTIONMENT

No

## COURT WITH ORIGINAL JURISDICTION

State District Court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# ILLINOIS

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article IV, Section 2, 3

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature/Legislative Redistricting Commission

Legislature must redistrict by June 30, 1981. If they do not, an 8 member Legislative Redistricting Commission is appointed by July 10, 1981: 2 each by the Senate President and Minority Leader, the House Speaker and Minority Leader. The members are to include 2 Senators, 2 Representatives and 4 citizens. The Commission must file a report with the Secretary of State by August 10, 1981. If the Commission does not adopt a plan by that date, the State Supreme Court selects 2 people by September 1, 1981, one of whom is chosen at random to be the commission tie-breaker. The 9 member commission must file its report by October 5, 1981.

CONGRESSIONAL DISTRICTS: Legislature

### STAFF CONTACT

Ms. Karen A. Fahrion
Research Associate
Legislative Council
Room 107, Stratton Building
Springfield, IL 62706
(217) 782-6851

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: June 30, 1981; October 5, 1981

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Blocks

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Party registration, compactness, geographical factors

DEVIATION: 1.0% to 4.9%

TYPE OF DISTRICT: Single member

# ILLINOIS

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Yes - Senate districts

SENATORS ELECTED IN STAGGERED TERMS: Yes - all terms end in 1983; all Senators elected in 1982

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: No

## COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - House Republicans - Rose Institute
Claremont, California

## COURT WITH ORIGINAL JURISDICTION

State Supreme Court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# INDIANA

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article 4, Section 4
Article 4, Section 5 (ruled invalid by court)

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

| Senate Legislative Apportionment and Elections Committee | House Elections and Apportionment Committee |
|---|---|
| Senate Chairman<br>Sen. Charles Bosma (R) | House Chairman<br>Rep. Dick Mangus (R) |

CONGRESSIONAL DISTRICTS: Same

### STAFF CONTACT

Robert Schembs; Beth Wood
Staff Attorney
Legislative Services
Room 302, State House
Indianapolis, IN 46204
(317) 269-3731

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: State Legislative plan adopted April 1981

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Census areas and election precincts

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: Some - All precinct boundaries are now required to be drawn along discernable geographic lines

OTHER CRITERIA FOR DRAWING DISTRICTS: Party registration, compactness, geographic factors

DEVIATION: 1.0% to 4.9%

TYPE OF DISTRICT: Senate - single member; House - single member, multimember

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be allowed to serve out their term

# INDIANA

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: Not prohibited, but unlikely

## COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - open

## COURT WITH ORIGINAL JURISDICTION

No one court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

Senate enrolled act 80 (Senate districts)
Senate enrolled act 85 (U.S. Congressional districts; some modification of Senate districts)
House enrolled act 1475 (House districts)

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

Available from State Election Board, 100A State Office Building, Indianapolis, IN 46204 (317) 232-3939

# KANSAS

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article 10

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Senate Legislative, and Congressional Apportionment Committee

Senate Chairman
Sen. Dan Thiessen (R)

House Legislative, Judicial and Congressional Apportionment Committee

House Chairman
Rep. Robert G. Frey (R)

CONGRESSIONAL DISTRICTS: Same

Congressional districts will be drawn from federal census figures.

### STAFF CONTACT

Russell Mills
Principal Analyst
Legislative Research Department
Room 545-N, State House
Topeka, KS 66612
(913) 296-3181

M. Torrence
Revisor of Statutes
State House
Topeka, KS 66612
(913) 296-2321

### CRITERIA USED FOR STATE LEGISLATIVE APPORTIONMENT

DATE: At regular session in 1979 and every ten years thereafter

POPULATION: 1978 annual state census; used for 1979 reapportionment, in future, federal census will be used

POPULATION GROUPS EXCLUDED: Military and students

SMALLEST UNIT OF POPULATION: Voting precincts

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, geography, county boundaries and projected population growth

DEVIATION: 5.0% to 9.9%

TYPE OF DISTRICT: Single member

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: No

# KANSAS

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1989: Yes

## COMPUTER ASSISTANCE FOR APPORTIONMENT

No

## COURT WITH ORIGINAL JURISDICTION

Kansas Supreme Court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

Senate - K.S.A. 1980 Supp. 4-4, 101 through 4-4, 142
House - K.S.A. 1980 Supp. 4-3, 201 through 4-3, 327

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| In re Senate Bill No. 22) | Senate 225 Kan 628, 593 P2d 1 (1979) |
| In re House Bill No. 2620 | House 225 Kan 827, 595 P2d 334 (1979) |

## DISTRICT MAPS

Available - The Council of State Governments

# KENTUCKY

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Section 33

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Interim Joint Committee on State Government

| Senate Co-Chairman | House Co-Chairman |
|---|---|
| Sen. Pat M. McCuiston (D) | Rep. Mark O'Brien (D) |

Subcommittee on Redistricting

| Senate Co-Chairman | House Co-Chairman |
|---|---|
| Sen. Helen Garrett (D) | Rep. Lloyd E. Clapp (D) |

CONGRESSIONAL DISTRICTS: Same

### STAFF CONTACT

Joyce Honaker
Committee Staff Administrator
Legislative Research Commission
State Capitol
Frankfort, KY 40601
(502) 564-8100

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: No specific date - redistricting anticipated in 1982 regular session

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: No

SMALLEST UNIT OF POPULATION: Voting precincts and smallest census units

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Contiguity

DEVIATION: No decision

TYPE OF DISTRICT: Single member

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be allowed to serve out their term

# KENTUCKY

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: Yes

## COMPUTER ASSISTANCE FOR APPORTIONMENT

State Data Processing

## COURT WITH ORIGINAL JURISDICTION

State Circuit Court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

K.R.S. 6.011 to 6.041

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# MAINE

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article 4, Part 3, Section 1-A

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Advisory Commission/Legislature

Advisory Commission established in 1975 by Constitutional amendment. Members will be appointed in 1983 and every 10 years after that. 15 members: 3 by House Speaker, 2 by Senate President, 5 by Floor leaders, 5 by others. 6 majority and minority party members. 3 public members. The commission prepares a plan and submits it to the legislature which may adopt the commission's plan or one of its own. If the legislature cannot agree on a plan, the Supreme Judicial Court must redistrict.

CONGRESSIONAL DISTRICTS: Legislature

### STAFF CONTACT

Erland B. Hardy
Legislative Attorney
Legislative Research Office
State House
Augusta, ME 04333
(207) 289-2101

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1983 - Submission of plan within 90 days after convening of Legislature

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: Non-U.S. Citizens

SMALLEST UNIT OF POPULATION: Unknown

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: Unknown

OTHER CRITERIA FOR DRAWING DISTRICTS: Contiguous, compactness

DEVIATION: Unknown

TYPE OF DISTRICT: Senate - single member; House - single member multimember. Expect all House districts to be single after 1980

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

# MAINE

SENATORS ELECTED IN STAGGERED TERMS: No

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: Unknown

## COMPUTER ASSISTANCE FOR APPORTIONMENT

Unknown

## COURT WITH ORIGINAL JURISDICTION

State Supreme Judicial Court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# MARYLAND

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article III, Sections 4, 5

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Governor/Legislature

| Senate Constitutional and Public Law Committee | House Constitutional and Administrative Law Committee |
|---|---|
| Senate Chairman<br>Sen. Edward T. Conroy (D) | House Chairman<br>Del. Helen L. Koss (D) |

The Governor drafts a plan which he submits to the Legislature. It has 45 days to amend that plan or adopt one of its own. If it cannot act, the Governor's plan automatically becomes law.

CONGRESSIONAL DISTRICTS: Same

### STAFF CONTACT

| | | |
|---|---|---|
| John O'Brien<br>Executive Assistant<br>Governor's Office<br>State House<br>Annapolis, MD 21401<br>(301) 269-2606 | Donovan Peeters<br>Legislative Analyst<br>Senate Constitutional and Public Law Committee<br>Room 400, James Office Building<br>Annapolis, MD 21401<br>(301) 841-3582 | William G. Somerville<br>Legislative Analyst<br>House Constitutional and Administrative Law Committee<br>Room 141, House Office Building<br>Annapolis, MD 21401<br>(301) 841-3502 |

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1982; 45th day of the Legislative session in the second year following the census

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: No

SMALLEST UNIT OF POPULATION: Unknown

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, natural and political boundaries

# Maryland

DEVIATION: Unknown

TYPE OF DISTRICT: Senate - single member; House - single member, multimember

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Yes

SENATORS ELECTED IN STAGGERED TERMS: No

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: No

## COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - State General Assembly Data Processing; Department of State Planning; University of Maryland

## COURT WITH ORIGINAL JURISDICTION

State Court of Appeals

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# MISSISSIPPI

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article 13, Section 254

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature/Reapportionment Commission

Standing Joint Legislative Committee on Reapportionment

| Vice-Chairman | Chairman |
|---|---|
| Sen. William Thomas Harpole (D) | Rep. Thomas H. Campbell, III (D) |

Reapportionment Commission

5 member commission consisting of the Chief Justice of the Supreme Court, Chairman; Attorney General; Secretary of State; Speaker of House of Representatives; President Pro Tempore of the Senate.

CONGRESSIONAL DISTRICTS: Legislature

### STAFF CONTACT

Larry Richardson
Director
Legislative Reference Bureau
P. O. Box 1040
Jackson, MS 39205
(601) 354-6165

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1982 - Adjournment date of the regular session of the Legislature in the second year following the 1980 census.

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Blocks

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, race, county boundaries

DATE TO BE USED: Demographic, cartographic data

DEVIATION: 1.0% to 4.9%

TYPE OF DISTRICT: Single member

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

# MISSISSIPPI

SENATORS ELECTED IN STAGGERED TERMS: No

VOTING RIGHTS STATE: Yes

NEW OR REVISED DISTRICTS BEFORE 1990: Yes

## COMPUTER ASSISTANCE FOR APPORTIONMENT

Unknown

## CONSULTANT

Jerris Leonard and Associates
1700 Pennsylvania Avenue
Suite 550
Washington, D.C. 20006
(202) 872-1095

## COURT WITH ORIGINAL JURISDICTION

No one court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# MISSOURI

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article III, Sections 2, 7, 45

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Senate Reapportionment Commission; House Reapportionment Commission

Established in 1966
House Commission: 20 members, Senate Commission 10 members. All appointed by Governor. House members must be a resident of the Congressional district from which nominated. No more than one shall come from a single legislative district. Should the members of the commission not agree, a panel of 6 judges drawn from the Court of Appeals shall be selected to draw reapportionment plans.

CONGRESSIONAL DISTRICTS: Legislative

Senate Committee on Apportionment

Senate Chairman
Sen. Clarence H. Heflin (D)

Committee on Congressional Reapportionment

House Chairman
Rep. Anthony D. Ribaudo (D)

### STAFF CONTACT

Frank Masters
Director
Committee on Legislative Research
Room 117A, State Capitol Building
Jefferson City, MO 65101
(314) 751-4223

Mark Reading
Project Director, Reapportionment
Office of Administration
Division of Budget and Planning
Room 129, Capitol Building
Jefferson City, MO 65101
(314) 751-2073

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 - Commission names submitted within 60 days after certification of census. Governor must appoint within 30 days after submission of names. Report 6 months after appointment of commission.

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: No

SMALLEST UNIT OF POPULATION: Commission may use any information available

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: Yes

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, geography

DEVIATION: Unknown

# MISSOURI

TYPE OF DISTRICT: Single member

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be allowed to serve out their term

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: Only if invalidated by a court

## COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - open

## COURT WITH ORIGINAL JURISDICTION

State Chancery Court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# NEBRASKA

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article III, Sections 5, 7

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Miscellaneous Subjects Committee
Chairman
Sen. Elroy Hefner
Room 2021
State Capitol
Lincoln, NE 68509

CONGRESSIONAL DISTRICTS: Same

### STAFF CONTACT

Ron Bowmaster
Deputy Director of Research
Legislative Council
7th Floor, State Capitol
Lincoln, NE 68509
(402) 471-2440

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: No specific date

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: Aliens

SMALLEST UNIT OF POPULATION: Blocks; ED's

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: Yes

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness - will attempt to follow political boundaries. Separate and distinct districts, compact and contiguous, nearly as equal as may be, county lines are to be followed wherever practicable

DEVIATION: 1.0% to 4.9%

TYPE OF DISTRICT: Single member

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Unicameral legislature

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be allowed to serve out their term

# NEBRASKA

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: No

## COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - State Central Data Processing

## COURT WITH ORIGINAL JURISDICTION

Supreme Court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

Legislative: §5 - 104.07
Congressional: §5 - 101.01

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# NEVADA

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article 15, Section 13; Article 4, Section 5

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

| Senate Government Affairs Committee | Assembly Elections Committee |
|---|---|
| Senate Chairman | House Chairman |
| Sen. James I. Gibson (D) | Rep. Alan Glover (D) |

CONGRESSIONAL DISTRICTS: One Congressman

### STAFF CONTACT

Andrew P. Grose
Research Director
Legislative Counsel Bureau
Legislative Building
Carson City, NV 89710
(702) 885-5637

### CRITERIA FOR EXISTING STATE LEGISLATIVE APPORTIONMENT

DATE: 1981

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Blocks; ED's

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness; geographic, county boundaries

DEVIATION: -5% to +5%. Maximum deviation spread 10%

TYPE OF DISTRICT: Senate - single member or two member; House - single member

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Yes

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be allowed to serve out their term

VOTING RIGHTS STATE: No

NEVADA

NEW OR REVISED DISTRICTS BEFORE 1990: Yes

COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - State Central Data Processing

COURT WITH ORIGINAL JURISDICTION

No one court

STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

N.R.S. 218.010 to 218.084 (1971, amended in 1973)

CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

DISTRICT MAPS

# NEW HAMPSHIRE

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Part 2, Articles 9, 9A, 11, 11A, 26, 26A

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

House Reapportionment Committee

Chairman
Rep. Russell C. Chase (R)

CONGRESSIONAL DISTRICTS: Same

### STAFF CONTACT

Donald S. Jennings
Legislative Services
Room 110, State House
Concord, NH 03301
(603) 271-3435

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 - First legislative session following the decennial census

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: Students, military personnel

SMALLEST UNIT OF POPULATION: Blocks

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Town and city ward boundaries

DEVIATION: 1.0% to 4.9%

TYPE OF DISTRICT: Senate - single member; House - single member, multimember

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: No

VOTING RIGHTS STATE: Yes - Antrim Town; Benton Town; Millfield Township; Newington Town; Pinkhams Grant; Rindge Town; Stewartstown; Stratford Town; Unity Town

NEW OR REVISED DISTRICTS BEFORE 1990: Yes

# NEW HAMPSHIRE

## COMPUTER ASSISTANCE FOR APPORTIONMENT

No

## COURT WITH ORIGINAL JURISDICTION

State Superior Court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# NEW JERSEY

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article IV, Sections II, III

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Apportionment Commission

Established in 1966
10 members: 5 by Chairman, Democrat State Committee; 5 by Chairman, Republican State Committee
1 tie breaker if deadlock: Chief Justice, State Supreme Court

CONGRESSIONAL DISTRICTS: Legislature

### STAFF CONTACT

Samuel A. Alito
Executive Director
Office of Legislative Services
Suite 232, State House
Trenton, NJ 08625
(609) 292-4661
292-8014

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: Within one month of the receipt by the Governor of the census, or on or before February 1, 1981, whichever date is later (new state legislative plan certified April 13, 1981)

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Election districts (voting precincts)

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, contiguity, political subdivisions (municipalities but not counties)

DEVIATION: 1981 - 7.7% overall range (+5.13% and -2.57%)

TYPE OF DISTRICT: Senate - single member; House - multimember (2 per Senate district)

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Yes - Senate is basis of district

# NEW JERSEY

SENATORS ELECTED IN STAGGERED TERMS: No

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: No

## COMPUTER ASSISTANCE FOR APPORTIONMENT

None used

## COURT WITH ORIGINAL JURISDICTION

State Superior Court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| Apportionment Commission v. U.S. Department of Commerce | Civil Action No. 81-309 |

The suit was filed in Federal District Court to force the Census Bureau to deliver population data to the state in order to do state legislative districting.

| | |
|---|---|
| Apportionment Commission v. Dennan | Docket No. L28848-80 |

The suit was filed in State Superior Court to allow certification of a state legislative plan that did not use final census figures for Essex County and did not comply with state constitutional language about the preservation of counties.

| | |
|---|---|
| Welch v. Apportionment Commission | Docket No. C2911-80 |

The suit was filed in State Superior Court to overturn the 1981 state legislative districting plan because of excessive population deviations, political unfairness, and undue constitution of the Apportionment Commission. The plan was upheld.

## DISTRICT MAPS

Available from The Council of State Governments or the Office of Legislative Services, Division of Legislative Information and Research.

# NEW MEXICO

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article 4, Section 3

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

CONGRESSIONAL DISTRICTS: Same

### STAFF CONTACT

Mercedes G. Romero
Senior Research Assistant
New Mexico Legislative Council Service
334 State Capitol
Santa Fe, NM 87503
(505) 827-3141

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 - Once every 10 years following the availability of census counts

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Voting precincts

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness

DEVIATION: 1.0% to 4.9%

TYPE OF DISTRICT: Single member

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: Yes - may change with reapportionment

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICT LINES BEFORE 1990: Unknown

# NEW MEXICO

## COMPUTER ASSISTANCE FOR APPORTIONMENT

New Mexico Republican Party - Rose Institute
Claremont, California

## COURT WITH ORIGINAL JURISDICTION

No one court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# NORTH CAROLINA

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article II, Sections 3, 5

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

| Senate Redistricting Committee | House Legislative Redistricting Committee |
|---|---|
| Senate Chairman<br>Sen. Marshall A. Ranch (D) | House Co-Chairman<br>Rep. Robert A. Jones (D)<br>Rep. Daniel T. Lilley (D) |

CONGRESSIONAL DISTRICTS: Legislature

| Senate Congressional Redistricting Committee | House Congressional Redistricting Committee |
|---|---|
| Senate Chairman<br>Sen. Helen R. Marvin (D) | House Chairman<br>Rep. J. P. Huskins (D) |

### STAFF CONTACT

John L. Allen, Jr.
Legislative Services Officer
Legislative Services Office
2129 State Legislative Building
Raleigh, NC 27611
(919) 733-7044

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 - First regular session following release of census counts

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: No

SMALLEST UNIT OF POPULATION: Counties

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness; contiguity of counties

DEVIATION: Unknown

TYPE OF DISTRICT: Single member/multimember

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

# NORTH CAROLINA

SENATORS ELECTED IN STAGGERED TERMS: No

VOTING RIGHTS STATE: Yes: Anson, Beaufort, Bertie, Bladen, Camden Caswell, Chowan, Cleveland, Craven, Cumberland, Edgecombe, Franklin, Gaston, Gates, Granville, Greene, Guilford, Halifax, Harnett, Hertford, Hoke, Jackson, Lee, Lenoir, Martin, Nash, Northampton, Onslow, Pasquotank, Perquimans, Person, Pitts, Robeson, Rockingham, Scotland, Union, Vance, Washington, Wayne, Wilson Counties

NEW OR REVISED REDISTRICTING BEFORE 1990: No

## COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - Open

## COURT WITH ORIGINAL JURISDICTION

Superior Court Division of the General Court of Justice

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# NORTH DAKOTA

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article II, Section 29, 35
(Section 29, 35 ruled invalid in Paulson v. Meier, 232 F. Supp 183)

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Joint Legislative Rule 305 - creates a joint standing committee on reapportionment. Membership of the committee has not yet been established.

CONGRESSIONAL DISTRICTS: One Congressman

### STAFF CONTACT

John A. Graham
Director
Legislative Council
State Capitol
Bismarck, ND 58505
(701) 224-2916

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 - no specific deadline

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: No

SMALLEST UNIT OF POPULATION: Blocks

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, geography

DEVIATION: North Dakota CC § 54-03-01.5: "The total population variance of all districts and subdistricts if created from the average district population may not exceed recognized constitutional limitations."

TYPE OF DISTRICT: Senate - single member, multimember
House - multimember

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Yes - Senate

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be required to run for reelection if district boundaries change

# NORTH DAKOTA

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEOFRE 1990: No

## COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - Bureau of Governmental Affairs, University of North Dakota
Lloyd B. Omdahl, Director

## COURT WITH ORIGINAL JURISDICTION

North Dakota Supreme Court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# OHIO

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article XI, Sections 1-15

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Ohio Apportionment Board

Established in 1967
5 members; Governor, Secretary of State, Auditor of State, one person chosen jointly by the Speaker of the House and the head of his political party in the Senate, and one person chosen jointly by the leader of the other major political party in the House and Senate.

CONGRESSIONAL DISTRICTS: Legislature

Senate Elections, Financial Institutions and Insurance Committee

Senate Chairman
Sen. Paul R. Matia (R)

House Elections Committee

House Chairman
Rep. Terry M. Tranter (D)

### STAFF CONTACT

Edith S. Woodward
Library Administrator
Ohio Legislative Service Commission
State House
Columbus, OH 43215
(614) 466-5312

Jack L. Noragon
Senior Research Associate
Ohio Legislative Service Commission
State House
Columbus, OH 43215
(614) 466-4389

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: October 5, 1981

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Census blocks

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Equal population, compactness, contiguity of political subdivisions, boundaries

DEVIATION: 10%

TYPE OF DISTRICT: Single member

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Yes - 3 house districts per senate district

# OHIO

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be allowed to serve out their term

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: No

## COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - State Computer available; Republicans have employed Market Opinion Research, Inc., Detroit, Michigan. Democrats have employed Decision Research Corp., Cleveland, Ohio.

## COURT WITH ORIGINAL JURISDICTION

Ohio Supreme Court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

None: law merely requires that the plan of the Apportionment Board be published.

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# PENNSYLVANIA

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article 2, Section 17

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislative Reapportionment Commission

Established in 1968
5 members: House majority and minority leaders or appointed deputies; Senate majority or minority leaders or appointed deputies. The four members select the fifth member, a citizen of the commonwealth other than a local, state or federal official holding an office to which compensation is attached.

CONGRESSIONAL DISTRICTS: Legislature

### STAFF CONTACT

Vincent W. Raba
Assistant Director
Joint State Government Commission
Room 108, Finance Building
Harrisburg, PA 17120
(717) 787-6617

Dr. James O. Freedman
Chairman
Legislative Reapportionment Commission
Room 217, Finance Building
Harrisburg, PA 17120
(717) 783-1222

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 - 90 days after the commission is certified or census population is available

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Blocks

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, geography, political boundaries, voter registration

DEVIATION: 1.0% to 4.9%; Senate - 5.0% to 9.9%

TYPE OF DISTRICT: Single member

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be allowed to serve out their term

VOTING RIGHTS STATE: No

# PENNSYLVANIA

NEW OR REVISED DISTRICTS BEFORE 1990: No

## COMPUTER ASSISTANCE FOR APPORTIONMENT

State Legislative Data Processing Center/Richard E. Campbell, Director
State Legislative Data Processing Center
Main Capitol, Room 47C
Harrisburg, PA 17120
(717) 787-7358

## COURT WITH ORIGINAL JURISDICTION

Pennsylvania Supreme Court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

## CURRENT LITIGATION

CASE NAME CASE NUMBER

The Commission asked the State Supreme Court to determine when the 90 day deadline began. The Court held "... from the date the Commission receives the population data of the Commonwealth as determined by the Federal decennial census, in usuable form, (breakdown of data by precinct and ward) for the Commissions performance of its constitutional duties."

## DISTRICT MAPS

# SOUTH DAKOTA

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article III, Section 5

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature/Reapportionment Group

| Senate State Affairs Committee | House State Affairs Committee |
|---|---|
| Senate Chairman | House Chairman |
| Sen. G. Homer Harding (R) | Rep. JOseph H. Barnett (R) |

If the legislature is unable to redistrict, before adjourning the task falls to the Governor, Superintendent of Public Instruction, Presiding Judge of the Supreme Court, Attorney General and the Secretary of State who have 30 days to promulgate a plan.

CONGRESSIONAL DISTRICTS: One Congressman

### STAFF CONTACT

Wes Tschetter
Director
Legislative Research Council
Pierre, SD 57501
(605) 773-3251

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: April 1981 - Regular legislative session of year ending in "1". (State legislative districting plan adopted April 13, 1981).

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: No

SMALLEST UNIT OF POPULATION: Townships and cities

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Population equality, county boundaries, protection of minority voting rights, compactness, preservation of historical districting patterns, equalization as geographical size, socioeconomic considerations

DEVIATION: Unknown

TYPE OF DISTRICT: Single member, multimember

# SOUTH DAKOTA

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Yes - Senate is primary district

SENATORS ELECTED IN STAGGERED TERMS: No

VOTING RIGHTS STATE: Yes - Shannon and Todd counties only

NEW OR REVISED DISTRICTS BEFORE 1990: No

## COMPUTER ASSISTANCE FOR APPORTIONMENT

No

## COURT WITH ORIGINAL JURISDICTION

State Supreme Court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# TEXAS

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article 3, Sections 25, 26, 26A, 28

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature/Legislative Redistricting Board of Texas

Committee of the Whole Senate
Redistricting Subcommittee

Senate Chairman
Sen. H. Tati Santiesteban (D)

House Regions, Compacts, and Districts Committee

House Chairman
Rep. Tim Von Dohlen (D)

Established in 1948
5 members: Lt. Governor, House Speaker, Attorney General, Comptroller and the Commissioner of the General Land Office. The Board is to assemble 90 days after legislative adjournment and must promulgate a plan within 60 days.

CONGRESSIONAL DISTRICTS: Legislature

### STAFF CONTACT

Robert I. Kelly
Director
Texas Legislative Council
Box 12128
Capitol
Austin, TX 78711
(512) 475-2736

Mr. Lynn Moak
Staff Director
Committee of the Whole Senate
Redistricting
Office of the Lieutenant Governor
P. O. Box 12068
Austin, TX 78711
(512) 475-3106

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 - The first regular session after publication of the U.S. Decennial census

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: No

SMALLEST UNIT OF POPULATION: Blocks

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, race, geography

DEVIATION: Senate: 1.0% to 4.9%
House: 5.0% to 9.9%

# TEXAS

TYPE OF DISTRICT: Single member

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be required to run for reelection

VOTING RIGHTS STATE: Yes

NEW OR REVISED DISTRICTS BEFORE 1990: Yes

## COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - Synercom Technology, Inc.

## COURT WITH ORIGINAL JURISDICTION

No one court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# UTAH

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article IX

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Joint Legislative Reapportionment Committee

| Senate Chairman | House Chairman |
|---|---|
| Sen. Fred W. Finlinson (R) | Rep. Merrill W. Harward (R) |

CONGRESSIONAL DISTRICTS: Same

### STAFF CONTACT

Richard Strong
Research Analyst
Office of Legislative Research
Room 436, State Capitol
Salt Lake City, UT 84114
(801) 533-5481

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 - First Legislative session following the decennial census

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: No

SMALLEST UNIT OF POPULATION: Block

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Party registration, compactness, race, geography, registered voters, number of legislative districts

DEVIATION: 5.0% to 9.9%

TYPE OF DISTRICT: Single member

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be required to run for reelection

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: Yes

# UTAH

## COMPUTER ASSISTANCE FOR APPORTIONMENT

State Systems Planning; Wang Laboratories, Inc.

## COURT WITH ORIGINAL JURISDICTION

No one court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# VERMONT

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Statutory Provisions: 17 V.S.A. Chapters 33, 34, 34A; Vermont Constitution Chapter 2, Section 13, 18, 73

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislative Apportionment Board/Legislature

Senate Government Operations Committee

Senate Chairman
Sen. William T. Doyle (R)

House Government Operations Committee

House Chairman
Rep. Cola H. Hudson (R)

CONGRESSIONAL DISTRICTS: One Congressman

### STAFF CONTACT

Janet Ancel
Draftsman
Legislative Council
State House
Montpelier, VT 05602
(802) 828-2231

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 - Advisory Board must report to Legislature by 2/1/81. House and Senate plans reported by Board to Legislature in February. Final legislative action due in 1982.

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Townships

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, contiguity, geography, town and county lines, patterns of social interaction and trade, common interests

DEVIATION: Undetermined

TYPE OF DISTRICT: Single member; multimember

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: No

# VERMONT

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: Yes

## COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - open

## COURT WITH ORIGINAL JURISDICTION

No one court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# VIRGINIA

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article II, Section 6

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Senate Privileges and Elections Committee

Senate Chairman
Sen. Hunter B. Andrews (D)

House Privileges and Elections Committee

House Chairman
Del. John D. Gray (D)

CONGRESSIONAL DISTRICTS: Same

### STAFF CONTACT

Jack Austin
Legislative Research Associate
Division of Legislative Services
P. O. Box 3-AG
Richmond, VA 23208
(804) 786-3591

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 - First Legislative session following the decennial census (State legislative plan adopted April, 1981).

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Cities and parts of counties

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: Yes with a few exceptions

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, political boundaries

DEVIATION: Senate: +4.35% and -6.3%; House: +14.67% and -14.16%

TYPE OF DISTRICT: Senate: Single member; House: Single member, multimember, flotorial

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: No

# VIRGINIA

VOTING RIGHTS STATE: Yes

NEW OR REVISED DISTRICTS BEFORE 1990: No

## COMPUTER ASSISTANCE FOR APPORTIONMENT

No

## COURT WITH ORIGINAL JURISDICTION

No one court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

Code of Virginia §24.1-12.2 - House of Delagates
Code of Virginia §24.1-14.2 - Senate

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# WASHINGTON

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article 2, Section 3, 6

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Senate State Government Committee

Senate Chairman
Sen. Jack Metcalf (R)

House Select Committee on Redistricting

House Chairman
Rep. Bob Eberle (R)

CONGRESSIONAL DISTRICTS: Same

### STAFF CONTACT

Leslie Goldstein
Assistant Code Revisor
Office of the Code Revisor
Legislative Building
Olympia, WA 98504
(206) 753-6804

Jerry Shaw
Research Analyst
Legislative Bldg
Olympia, WA 98504
(206) 753-1826

Loren Busch
Leslie McAllister
Research Analyst
House Select Committee on Reapportionment
House Office Building
Olympia, WA 98504
(206) 753-3158

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1981 session - no specific date
(State legislative plan adopted April, 1981).

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: Transient military personnel

SMALLEST UNIT OF POPULATION: Census tract

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Party registration, compactness race, geography, voting

DEVIATION: 10.0% to 14.9%

TYPE OF DISTRICT: Senate - single member; House - single member, multimember

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Yes - Senate

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be allowed to serve out their terms

# WASHINGTON

VOTING RIGHST STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: Yes

## COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - Rose Institute software - University of Washington for hardware

## COURT WITH ORIGINAL JURISDICTION

State Superior Court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# WEST VIRGINIA

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article 6, Sections 6, 7, 10

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Senate Select Committee on Redistricting

Senate Chairman
Sen. Ralph D. Williams (D)

House Select Committee on Redistricting

House Chairman
Del. Charles H. Damron (D)

CONGRESSIONAL DISTRICTS: Same

### STAFF CONTACT

Mark W. Stotler
Legislative Analyst
Legislative Services
Room E-132, State Capitol
Charleston, WV 25305
(304) 348-2040

William M. Walls
Attorney
Legislative Services
Room E-132, State Capitol
Charleston, WV 25305
(304) 348-2040

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1982 - no specific date

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Census tract

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, geography

DEVIATION: Unknown

TYPE OF DISTRICT: Senate - multimember; House - single member, multimember

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: No

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be allowed to serve out their terms

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: No

# WEST VIRGINIA

## COMPUTER ASSISTANCE FOR APPORTIONMENT

No

## COURT WITH ORIGINAL JURISDICTION

State Supreme Court of Appeals

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

West Virginia Code § 1-2-2 (Senate)
§ 1-2-2 (House)
§ 1-2-3 (Congress)

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# WISCONSIN

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article IV, Sections 3-5

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Assembly Elections Committee

Chairperson
Rep. William B. Broydrick

Senate Special Reapportionment Committee

Chairperson
Sen. William A. Bablitch (D)

Assembly Reapportionment Committee

Co-Chairperson
Rep. William B. Broydrick (D)

Co-Chairperson
Rep. Thomas A. Hauke (D)

CONGRESSIONAL DISTRICTS: Same

### STAFF CONTACT

Dr. H. Rupert Theobald
Chief
Legislative Reference Bureau
201 North, State Capitol
Madison, WI 53702
(608) 266-3561/0344

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: 1982 - The first session after each federal enumeration (The session extends into 1982)

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Wards (precincts), blocks

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: Yes in urban areas

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, geography, political boundaries

DEVIATION: Less than 1%

TYPE OF DISTRICT: Single member

# WISCONSIN

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Yes - House

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be allowed to serve out their term

VOTING RIGHTS STATE: No

NEW OR REVISED DISTRICTS BEFORE 1990: No

## COMPUTER ASSISTANCE FOR APPORTIONMENT

Yes - Interstate Cooperation Commission Staff

## COURT WITH ORIGINAL JURISDICTION

Wisconsin Supreme Court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

Ch. 3, statutes - Congressional districts
Ch. 4, statutes - Assembly and Senate districts

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

# WYOMING

## REAPPORTIONMENT PROFILE

### CONSTITUTIONAL PROVISIONS

Article 3, Sections 3, 47, 48, 49; Section 3 (part) ruled invalid

### REAPPORTIONMENT MECHANISM

STATE LEGISLATIVE DISTRICTS: Legislature

Senate Corporations, Elections and Political Subdivisions Committee

Senate Chairman
Sen. Neal Stafford

House Corporations, Elections and Political Subdivisions Committee

House Chairman
Rep. Alan Stauffer

CONGRESSIONAL DISTRICTS: One Congressman

### STAFF CONTACT

Gerald W. Fox
Senior Research Associate
Legislative Service Office
213 Capitol Building
Cheyenne, WY 82002
(307) 777-7881

### CRITERIA FOR STATE LEGISLATIVE APPORTIONMENT

DATE: At the Legislative session next following the Federal census. (State Legislative plan adopted February, 1981).

POPULATION: Federal census

POPULATION GROUPS EXCLUDED: None

SMALLEST UNIT OF POPULATION: Counties

CENSUS AND PRECINCT BOUNDARIES COTERMINOUS: No

OTHER CRITERIA FOR DRAWING DISTRICTS: Compactness, geography, county boundaries

DEVIATION: Senate: +39.5% and -24.4%
House: +29% and -60.3%

TYPE OF DISTRICT: Single member, multimember

HOUSE AND SENATE DISTRICT WITH COTERMINOUS BOUNDARIES: Some - House

# WYOMING

SENATORS ELECTED IN STAGGERED TERMS: Yes - Senators will be required to run for reelection

VOTING RIGHTS STATE: Yes - Campbell County (only)

NEW OR REVISED DISTRICTS BEFORE 1990: No

## COMPUTER ASSISTANCE FOR APPORTIONMENT

No

## COURT WITH ORIGINAL JURISDICTION

No one court

## STATUTORY CITATION OF MOST RECENT REAPPORTIONMENT

Chapter 76 Session Laws of 1981

## CURRENT LITIGATION

| CASE NAME | CASE NUMBER |
|---|---|
| None | |

## DISTRICT MAPS

TABLE 1

CONSTITUTIONAL PROVISIONS ON LEGISLATIVE AND CONGRESSIONAL REAPPORTIONMENT

| State | Constitutional Provision |
|---|---|
| Alabama | Section 197-203, Constitution of 1901 |
| Alaska | Article VI, Sections 1-11 |
| Arizona | No constitutional provision |
| Arkansas | Amendment 23, Amendment 45 |
| California | Article IV, Section 6 |
| Colorado | Article V, Sections 44-48 |
| Connecticut | Article III, Section 6 |
| Delaware | No constitutional provision |
| Florida | Article III, Sections 1, 15, 16 |
| Georgia | Article III, Section II, Paragraph 1, Section II, Paragraph 1 |
| Hawaii | Article IV |
| Idaho | Article 3, Sections 2, 4 |
| Illinois | Article IV, Sections 2, 3 |
| Indiana | Article 4, Sections 4, 5 |
| Iowa | Article III, Section 6, 34-37, 39 |
| Kansas | Article 10 |
| Kentucky | Section 33 |
| Louisiana | Article III, Section 6 |
| Maine | Article 4, Part 3, Section 1-A |
| Maryland | Article III, Sections 4, 5 |
| Massachusetts | Amendment XCII |
| Michigan | Article 4, Sections 2-6 |
| Minnesota | Article IV, Section 2-3 |
| Mississippi | Article 13, Section 254 |
| Missouri | Article III, Sections 2, 7, 45 |
| Montana | Article 5, Section 14 |
| Nebraska | Article III, Sections 5, 7 |
| Nevada | Article 15, Section 13; Article 4, Section 5 (ruled invalid) |
| New Hampshire | Part 2, Articles 9, 9A, 11, 11-A, 26, 26-A |
| New Jersey | Article IV, Sections II, III |
| New Mexico | Article 4, Section 3 |
| New York | Article III, Sections 2-5 |
| North Carolina | Article II, Sections 3, 5 |
| North Dakota | Article II, Section 29, 35 (ruled invalid by Paulson V. Meier) |
| Ohio | Article XI, Sections 1-15 |
| Oklahoma | Article V, Section 11A-11E |
| Oregon | Article IV, Sections 6-7, Article 18, Section 5 |
| Pennsylvania | Article 2, Section 17 |
| Rhode Island | Article V, Section 1, Amendment Article XIII, XIX |
| South Carolina | Article III, Sections 3-6 |
| South Dakota | Article III, Section 5 |
| Tennessee | Article 2, Sections 4-6 |
| Texas | Article 3, Sections 25, 26, 26A, 28 |
| Utah | Article IX |
| Vermont | Chapter 2, Section 13, Section 18 |
| Virginia | Article II, Section 6 |
| Washington | Article 2, Sections 3, 6 |
| West Virginia | Article 6, Sections 6, 7, 10 |
| Wisconsin | Article IV, Sections 3-5 |
| Wyoming | Article 3, Sections 3, 47, 48, 49, Section 3 (part and section 48 ruled invalid |

TABLE 2a

AGENCY RESPONSIBLE FOR STATE LEGISLATIVE REAPPORTIONMENT

| State | Initial Reapportionment Agency | Secondary Reapportionment Agency |
|---|---|---|
| Alabama | Legislature | ... |
| Alaska | Reapportionment Board | ... |
| Arizona | Legislature | ... |
| Arkansas | Board of Apportionment | ... |
| California | Legislature | ... |
| Colorado | Colorado Reapportionment Commission | ... |
| Connecticut | Legislature | Reapportionment Commission |
| Delaware | Legislature | ... |
| Florida | Legislature | State Supreme Court |
| Georgia | Legislature | ... |
| Hawaii | Reapportionment Commission | ... |
| Idaho | Legislature | ... |
| Illinois | Legislature | Legislative Redistricting Commission |
| Indiana | Legislature | ... |
| Iowa | Legislature | Iowa Supreme Court |
| Kansas | Legislature | ... |
| Kentucky | Legislature | ... |
| Louisiana | Legislature | Louisiana Supreme Court |
| Maine | Advisory Commission/Legislature | Supreme Judicial Court |
| Maryland | Governor/Legislature | ... |
| Massachusetts | Joint Special Committee Established to Study New Division | ... |
| Michigan | Commission on Legislative Apportionment | ... |
| Minnesota | Legislature | ... |
| Mississippi | Legislature | Reapportionment Commission |
| Missouri | House and Senate Reapportionment Commissions | ... |
| Montana | Montana Districting and Apportionment Commission | ... |
| Nebraska | Legislature | ... |
| Nevada | Legislature | ... |
| New Hampshire | Legislature | ... |
| New Jersey | Apportionment Commission | ... |
| New Mexico | Legislature | ... |
| New York | Legislature | ... |
| North Carolina | Legislature | ... |
| North Dakota | Legislature | ... |
| Ohio | Ohio Apportionment Board | ... |
| Oklahoma | Legislature | Apportionment Commission |
| Oregon | Legislature | Secretary of State |
| Pennsylvania | Legislative Reapportionment Commission | ... |
| Rhode Island | Commission to Reapportion the General Assembly/ Legislature | ... |
| South Carolina | Legislature | ... |
| South Dakota | Legislature | Apportionment Group |
| Tennessee | Legislature | ... |
| Texas | Legislature | Legislative Redistricting Board |
| Utah | Legislature | ... |
| Vermont | Legislative Apportionment Board (Advisory)/Legislature | ... |
| Virginia | Legislature | ... |
| Washington | Legislature | ... |
| West Virginia | Legislature | ... |
| Wisconsin | Legislature | ... |
| Wyoming | Legislature | ... |

TABLE 2b

AGENCY RESPONSIBLE FOR CONGRESSIONAL REAPPORTIONMENT

| State | One Congressman | Legislature | Special Board |
|---|---|---|---|
| Alabama | ... | * | ... |
| Alaska | * | ... | ... |
| Arizona | ... | * | ... |
| Arkansas | ... | * | ... |
| California | ... | * | ... |
| Colorado | ... | * | ... |
| Connecticut | ... | * | ... |
| Deleware | * | ... | ... |
| Florica | ... | * | ... |
| Georgia | ... | * | ... |
| Hawaii | ... | ... | * |
| Idaho | ... | * | ... |
| Illinois | ... | * | ... |
| Indiana | ... | * | ... |
| Iowa | ... | * | ... |
| Kansas | ... | * | ... |
| Kentucky | ... | * | ... |
| Louisiana | ... | * | ... |
| Maine | ... | * | ... |
| Maryland | ... | * | ... |
| Massachusetts | ... | * | ... |
| Michigan | ... | * | ... |
| Minnesota | ... | * | ... |
| Mississippi | ... | * | ... |
| Missouri | ... | * | ... |
| Montana | ... | ... | * |
| Nebraska | ... | * | ... |
| Nevada | * | ... | ... |
| New Hampshire | ... | * | ... |
| New Jersey | ... | * | ... |
| New Mexico | ... | * | ... |
| New York | ... | * | ... |
| North Carolina | ... | * | ... |
| North Dakota | * | ... | ... |
| Ohio | ... | * | ... |
| Oklahoma | ... | * | ... |
| Oregon | ... | * | ... |
| Pennsylvania | ... | * | ... |
| Rhode Island | ... | * | ... |
| South Carolina | ... | * | ... |
| South Dakota | * | ... | ... |
| Tennessee | ... | * | ... |
| Texas | ... | * | ... |
| Utah | ... | * | ... |
| Vermont | * | ... | ... |
| Virginia | ... | * | ... |
| Washington | ... | * | ... |
| West Virginia | ... | * | ... |
| Wisconsin | ... | * | ... |
| Wyoming | * | ... | ... |

TABLE 3a

DEADLINE DATES FOR REAPPORTIONMENT BY INITIAL APPORTIONMENT AGENCY

| Date | State | Initial Reapportionment Agency | Date Is Permissive | Date Is Mandatory |
|---|---|---|---|---|
| 1981 | | | | |
| February 1 | Arkansas | B/C | ... | * |
| | New Jersey | B/C | ... | * |
| | Vermont-Senate | B/L | ... | * |
| Late February/Early March | Hawaii | B/C | ... | *(a) |
| | Utah | L | ... | *(b) |
| | Virginia | L | ... | *(b) |
| April 1 | Alaska | B/C | ... | *(c) |
| | Pennsylvania | B/C | ... | *(c) |
| April 6 | Oklahoma | L | ... | *(b) |
| | Washington | L | *(b) | ... |
| End of April | Alabama | L | ... | *(b) |
| | Indiana | L | ... | *(b) |
| | Nevada | L | ... | *(b) |
| | North Dakota | L | *(b) | ... |
| | South Dakota | L | *(b) | ... |
| | Vermont-House | B/L | *(b) | * |
| End of May | Texas | L | ... | *(b) |
| June 30 | Delaware | L | ... | *(b) |
| | Illinois | L | ... | * |
| July 1 | Oregon | L | ... | * |
| | New Hampshire | L | ... | *(b) |
| | North Carolina | L | ... | *(b) |
| | South Carolina | L | *(b) | ... |
| August 1 | Connecticut | L | ... | * |
| September 1 | Iowa | L | ... | * |
| | Michigan | B/C | ... | * |
| September 15 | California | L | *(b) | ... |
| October 1 | Missouri | B/C | ... | *(a) |
| October 5 | Ohio | B/C | ... | * |
| December 31 | Louisiana | L | ... | * |

TABLE 3a

(Continued)

| Date | State | Initial Reapportionment Agency | Date Is Permissive | Date Is Mandatory |
|---|---|---|---|---|
| 1982 | | | | |
| January 30 | Colorado | B/C | ... | *(a,c) |
| February | New Mexico | L | *(b) | ... |
| | Wyoming | L | ... | *(b) |
| March | Georgia | L | *(b) | ... |
| | Idaho | L | *(b) | ... |
| | Maryland | G/L | ... | *(a) |
| | Minnesota | L | *(b) | ... |
| | West Virginia | L | *(b) | ... |
| | Mississippi | L | ... | *(b) |
| April | Nebraska | L | *(b) | ... |
| | Tennessee | L | *(b) | ... |
| May | Rhode Island | L | ... | *(b) |
| June | Arizona | L | *(b) | ... |
| | Florida | L | *(b) | ... |
| | Wisconsin | L | *(b) | ... |
| 1983 | | | | |
| January | Montana | B/C | ... | * |
| April | Kentucky | L | *(b) | ... |
| | Maine | B/L | ... | * |
| 1986 | | | | |
| | Massachusetts | B/C | * | ... |
| | New York | L | * | ... |
| 1989 | | | | |
| | Kansas | L | ... | * |

Key

| | |
|---|---|
| L | Legislature |
| B/C | Board or Commission |
| G/L | Governor and Legislature |
| B/L | Board and Legislature |
| (a) | Estimated date of mandatory deadline |
| (b) | Estimated or actual date of legislative adjournment |
| (c) | Date is contigent on receipt of census data |

TABLE 3b

ANTICIPATED CRITERIA USED FOR STATE LEGISLATIVE REAPPORTIONMENT

| State | Census Federal | Census Other | Populations Excluded None | Populations Excluded Student | Populations Excluded Military | Populations Excluded Other | Smallest Unit of Population | Census and Precinct Boundaries Coterminous |
|---|---|---|---|---|---|---|---|---|
| Alabama | * | ... | * | ... | ... | ... | N.A. | No |
| Alaska | * | ... | ... | ... | * | ... | ED's | No |
| Arizona | * | .. | * | ... | ... | ... | Blocks | No |
| Arkansas | * | ... | * | ... | ... | ... | N.A. | Yes |
| California | * | ... | * | ... | ... | ... | CCD's & BG | No |
| Colorado | * | ... | * | ... | ... | ... | N.A. | Yes |
| Connecticut | * | ... | * | ... | ... | ... | N.A. | Yes |
| Delaware | * | ... | N.A. | N.A. | N.A. | N.A. | Blocks, ED's | Mostly |
| Florida | * | ... | * | ... | ... | ... | Voting Precinct | No |
| Georgia | * | ... | * | ... | ... | ... | Blocks | No |
| Hawaii | ... | (a) | ... | ... | ... | (b,c) | Voting Precinct | No |
| Idaho | * | ... | N.A. | N.A. | N.A. | N.A. | Voting Precinct | Yes |
| Illinois | * | ... | * | ... | ... | ... | Blocks | No |
| Indiana | * | ... | * | ... | ... | ... | Blocks | Some |
| Iowa | * | ... | * | ... | ... | ... | Voting Precinct | Mostly |
| Kansas | ... | (c) | * | ... | ... | ... | Voting Precinct | No |
| Kentucky | * | ... | No | ... | ... | ... | Voting Precinct | No |
| Louisiana | * | ... | * | ... | ... | ... | Voting Precinct | No |
| Maine | * | ... | ... | ... | ... | (b) | N.A. | N.A. |
| Maryland | * | ... | * | ... | ... | ... | N.A. | No |
| Massachusetts | ... | (d) | ... | * | * | ... | Voting Precinct | No |
| Michigan | * | ... | * | ... | ... | ... | Political Boundary | Yes |
| Minnesota | * | ... | * | ... | ... | ... | Blocks, ED's, Prec. | Yes |
| Mississippi | * | ... | * | ... | ... | ... | Blocks | No |
| Missouri | * | ... | * | ... | ... | ... | N.A. | Yes |
| Montana | * | ... | * | ... | ... | ... | Blocks | Yes |
| Nebraska | * | .. | * | ... | ... | ... | Blocks, ED's | Yes |
| Nevada | * | ... | * | ... | ... | ... | Blocks, ED's | No |
| New Hampshire | * | .. | ... | * | * | ... | Blocks | No |
| New Jersey | * | ... | * | ... | ... | ... | Precincts | No |
| New Mexico | * | ... | * | ... | ... | ... | Precincts | No |
| New York | * | ... | * | ... | ... | ... | Blocks | No |
| North Carolina | * | ... | * | ... | ... | ... | Counties | No |
| North Dakota | * | ... | * | ... | ... | ... | Blocks | No |
| Ohio | * | ... | * | ... | ... | ... | Blocks | No |
| Oklahoma | * | ... | * | ... | ... | ... | Blocks | No |
| Oregon | * | ... | * | ... | ... | ... | Blocks | Unknown |
| Pennsylvania | * | ... | * | ... | ... | ... | Blocks | No |
| Rhode Island | * | ... | * | ... | ... | ... | Blocks | Mostly |
| South Carolina | * | ... | * | ... | ... | ... | Blocks | Mostly |
| South Dakota | * | ... | * | ... | ... | ... | ED's | No |
| Tennessee | * | ... | * | ... | ... | ... | Voting Precinct | No |
| Texas | * | ... | * | ... | ... | ... | Blocks | No |
| Utah | * | ... | * | ... | ... | ... | Blocks | No |
| Vermont | * | (e) | N.A. | N.A. | N.A. | N.A. | Townships | No |
| Virginia | * | ... | * | ... | ... | ... | Blocks | Mostly |
| Washington | * | ... | ... | ... | * | ... | Census Tracts | No |
| West Virginia | * | ... | * | ... | ... | ... | Census Tracts | No |
| Wisconsin | * | ... | * | ... | ... | ... | Precincts (Wards) | Yes |
| Wyoming | * | ... | * | ... | ... | ... | ED's | No |

Key: N.A. - Not available or not yet determined
(a) Number of voters registered in the last preceding general election
(b) Non-U.S. citizen
(c) Non-registered voters
(d) State census
(e) The House of Representatives is apportioned on number "legal voters"

TABLE 3c

ANTICIPATED CRITERIA USED FOR STATE LEGISLATIVE REAPPORTIONMENT

| State | Party Registration | Compact & Contiguous Districts | Race or Ethnic Characteristics | Geography | Voting Age | Other |
|---|---|---|---|---|---|---|
| Alabama | N.A. | N.A. | N.A. | N.A. | N.A. | N.A. |
| Alaska | N.A. | N.A. | N.A. | N.A. | N.A. | N.A. |
| Arizona | ... | * | * | * | ... | ... |
| Arkansas | N.A. | N.A. | N.A. | N.A. | N.A. | N.A. |
| California | * | * | * | * | ... | ... |
| Colorado | ... | * | * | * | ... | Political Boundaries |
| Connecticut | N.A. | N.A. | N.A. | N.A. | N.A. | Community of Interest N.A. |
| Delaware | ... | * | ... | * | ... | ... |
| Florida | ... | ... | ... | * | ... | Political Boundaries |
| Georgia | ... | * | * | * | ... | Political Boundaries |
| Hawaii | ... | * | ... | * | . | Socio Economic Factors |
| Idaho | ... | * | ... | * | ... | ... |
| Illinois | * | * | ... | * | ... | ... |
| Indiana | * | * | ... | * | ... | ... |
| Iowa | ... | * | ... | ... | ... | Political Boundaries |
| Kansas | ... | * | ... | * | ... | ... |
| Kentucky | ... | * | ... | ... | ... | ... |
| Louisiana | ... | * | * | * | ... | ... |
| Maine | N.A. | N.A. | N.A. | N.A. | N.A. | N.A. |
| Maryland | ... | * | ... | * | ... | Political & Natural Boundaries |
| Massachusetts | ... | * | * | * | ... | ... |
| Michigan | ... | * | ... | * | ... | Political Boundaries |
| Minnesota | ... | * | ... | ... | ... | ... |
| Mississippi | ... | * | * | ... | ... | County Boundariss |
| Missouri | ... | * | ... | * | ... | ... |
| Montana | ... | * | * | * | ... | Political Boundaries |
| Nebraska | ... | * | ... | ... | ... | Political Boundaries |
| Nevada | ... | * | ... | * | ... | County Boundaries |
| New Hampshire | ... | ... | ... | ... | ... | Town & City Ward Boundaries |
| New Jersey | ... | * | .. | ... | ... | Political Suodivisions |
| New Mexico | ... | * | ... | ... | ... | ... |
| New York | N.A. | N.A. | N.A. | N.A. | N.A. | N.A. |
| North Carolina | ... | * | ... | ... | ... | County Boundaries |
| North Dakota | ... | * | ... | * | ... | ... |
| Ohio | ... | * | ... | * | ... | Political Boundaries |
| Oklahoma | N.A. | N.A. | N.A. | N.A. | N.A. | N.A. |
| Oregon | ... | * | * | * | ... | Community of Interest |
| Pennsylvania | * | * | ... | * | ... | Political Boundaries |
| Rhode Island | N.A. | N.A. | N.A. | N.A. | N.A. | N.A. |
| South Carolina | ... | * | * | * | * | ... |
| South Dakota | ... | * | ... | ... | ... | County Boundaries |
| Tennessee | ... | ... | ... | * | ... | Political Boundaries |
| Texas | ... | * | * | * | ... | ... |
| Utah | * | * | * | * | * | ... |
| Vermont | ... | * | ... | * | * | County Lines |
| Virginia | ... | * | ... | ... | ... | ... |
| Washington | * | * | * | * | * | ... |
| West Virginia | ... | * | ... | * | ... | ... |
| Wisconsin | ... | * | ... | * | ... | Political Boundaries |
| Wyoming | ... | * | ... | * | ... | County Boundaries |

Key:

N.A. - not available or not yet determined

TABLE 3d

PERCENT OF ANTICIPATED DEVIATION TO BE USED FOR DISTRICTS

| Less than 1.0% | 1.0% to 4.9% | 5.0% to 9.9% | 10.0% to 14.9% | 15.0% or more | Undetermined |
|---|---|---|---|---|---|
| Arizona | Colorado | Georgia | Idaho | Wyoming | Alabama |
| California | Illinois | Kansas* | Massachusetts - House | | Alaska |
| Florida | Indiana | Kentucky | Washington | | Arkansas |
| Michigan | Iowa | Louisiana | West Virginia | | Connecticut |
| Oklahoma | Massachusetts - Senate | Nevada | | | Delaware |
| | Mississippi | North Carolina | | | Hawaii |
| | Nebraska | North Dakota | | | Maine |
| | New Hampshire | Pennsylvania - Senate | | | Maryland |
| | New Mexico | South Carolina | | | Minnesota |
| | Ohio | Texas - House | | | Missouri |
| | Pennsylvania | Utah | | | Montana |
| | South Dakota | Wisconsin | | | New Jersey |
| | Tennessee | | | | New York |
| | Texas - Senate | | | | Oregon |
| | | | | | Rhode Island |
| | | | | | Vermont |
| | | | | | Virginia |

* Next reapportionment to be held in 1989

TABLE 3e

TYPES OF DISTRICTS

| | SENATE | | | | HOUSE | | | | |
|---|---|---|---|---|---|---|---|---|---|
| State | Number of Seats | Number of Districts | Number of Multi-Member Districts | Largest Number of Seats in District | Number of Seats | Number of Districts | Number of Multi-Member Districts | Largest Number of Seats in District | House and Senate District Boundaries Coterminous |
| Alabama ..... | 35 | 35 | 0 | 1 | 105 | 105 | 0 | 1 | Yes |
| Alaska ..... | 20 | 16 | 3 | 3 | 40 | 22 | 10 | 6 | N.A. |
| Arizona ..... | 30 | 30 | 0 | 1 | 60 | 30 | 30 | 2 | Yes |
| Arkansas ..... | 35 | 35 | 0 | 1 | 100 | 84 | 10 | 3 | No |
| California .... | 40 | 40 | 0 | 1 | 80 | 80 | 0 | 1 | No |
| Colorado ..... | 35 | 35 | 0 | 1 | 65 | 65 | 0 | 1 | No |
| Connecticut ... | 36 | 36 | 0 | 1 | 151 | 151 | 0 | 1 | N.A. |
| Delaware ..... | 21 | 21 | 0 | 1 | 41 | 41 | 0 | 1 | No |
| Florida ..... | 40 | 19 | 14 | 3 | 120 | 45 | 21 | 6 | No |
| Georgia ..... | 56 | 56 | 0 | 1 | 180 | 154 | 17 | 4 | No |
| Hawaii..... | 25 | 9 | 7 | 4 | 51 | 27 | 22 | 3 | No |
| Idaho ... .... | 35 | 35 | 0 | 1 | 70 | 35 | 35 | 2 | Yes |
| Illinois ..... | 59 | 59 | 0 | 1 | 118 | 59 | 59 | 2 | Yes |
| Indiana ..... | 50 | 50 | 0 | 1 | 100 | 73 | 20 | 3 | No |
| Iowa ..... | 50 | 50 | 0 | 1 | 100 | 100 | 0 | 1 | Yes |
| Kansas ..... | 40 | 40 | 0 | 1 | 125 | 125 | 0 | 1 | No |
| Kentucky ..... | 38 | 38 | 0 | 1 | 100 | 100 | 0 | 1 | No |
| Louisiana ..... | 39 | 39 | 0 | 1 | 105 | 105 | 0 | 1 | No |
| Maine ..... | 33 | 33 | 0 | 1 | 151 | 119 | 11 | 10 | No |
| Maryland ..... | 47 | 47 | 0 | 1 | 141 | 47 | 47 | 3 | Yes |
| Massachusetts . | 40 | 40 | 0 | 1 | 160 | 160 | 0 | 1 | No |
| Michigan ..... | 38 | 38 | 0 | 1 | 110 | 110 | 0 | 1 | Yes |
| Minnesota ..... | 67 | 67 | 0 | 1 | 134 | 134 | 0 | 1 | Yes |
| Mississippi.... | 52 | 52 | 0 | 1 | 122 | 122 | 0 | 1 | No |
| Missouri ..... | 34 | 34 | 0 | 1 | 163 | 163 | 0 | 1 | No |
| Montana ..... | 50 | 50 | 0 | 1 | 100 | 100 | 0 | 1 | Yes |
| Nebraska ..... | 49 | 49 | 0 | 1 | Unicameral | | | | |
| Nevada ..... | 20 | 10 | 3 | 7 | 40 | 40 | 0 | 1 | No |
| New Hampshire . | 24 | 24 | 0 | 1 | 400 | 161 | 127 | 11 | No |
| New Jersey .... | 40 | 40 | 0 | 1 | 80 | 40 | 40 | 2 | Yes |
| New Mexico .... | 42 | 42 | 0 | 1 | 70 | 70 | 0 | 1 | No |
| New York ..... | 60 | 60 | 0 | 1 | 150 | 150 | 0 | 1 | No |
| North Carolina. | 50 | 27 | 18 | 4 | 120 | 45 | 35 | 8 | No |
| North Dakota .. | 50 | 49 | 1 | 2 | 100 | 49 | 49 | 4 | Yes |
| Ohio ..... | 33 | 33 | 0 | 1 | 99 | 99 | 0 | 1 | Yes |
| Oklahoma ..... | 48 | 48 | 0 | 1 | 101 | 101 | 0 | 1 | No |
| Oregon ..... | 30 | 30 | 0 | 1 | 60 | 60 | 0 | 1 | Yes |
| Pennsylvania .. | 50 | 50 | 0 | 1 | 203 | 203 | 0 | 1 | No |
| Rhode Island .. | 50 | 50 | 0 | 1 | 100 | 100 | 0 | 1 | No |
| South Carolina. | 46 | 16 | 13 | 5 | 124 | 124 | 0 | 1 | No |
| South Dakota .. | 35 | 28 | 3 | 5 | 70 | 28 | 23 | 10 | Yes |
| Tennessee ..... | 33 | 33 | 0 | 1 | 99 | 99 | 0 | 1 | No |
| Texas ..... | 31 | 31 | 0 | 1 | 150 | 150 | 0 | 1 | No |
| Utah ..... | 29 | 29 | 0 | 1 | 75 | 75 | 0 | 1 | No |
| Vermont ..... | 30 | 13 | 11 | 6 | 150 | 72 | 39 | 15 | No |
| Virginia ..... | 40 | 38 | 1 | 3 | 100 | 52 | 28 | 7 | No |
| Washington .... | 49 | 49 | 0 | 1 | 98 | 49 | 49 | 2 | Yes |
| West Virginia. | 34 | 17 | 17 | 2 | 100 | 36 | 25 | 13 | No |
| Wisconsin ..... | 33 | 33 | 0 | 1 | 99 | 99 | 0 | 1 | Yes |
| Wyoming ..... | 30 | 16 | 9 | 5 | 62 | 23 | 12 | 11 | No |

TABLE 3f

STATES WITH MULTIMEMBER DISTRICTS

| Senate | Legislators Must Run From Enumerated Seats | House | Legislators Must Run From Enumerated Seats |
|---|---|---|---|
| Alaska | No | Alaska | No |
| ... | | Arizona (x2) | No |
| ... | | Arkansas | Yes |
| Florida | Yes | Florida | Yes |
| ... | | Georgia | Yes |
| Hawaii | No | Hawaii | No |
| ... | | Idaho (x2) | Yes |
| ... | | Indiana | No |
| ... | | Maine | Yes |
| ... | | Maryland | No |
| Nevada | No | ... | |
| ... | | New Hampshire | No |
| ... | | New Jersey (x2) | No |
| North Carolina | No | North Carolina | No |
| South Carolina | Yes | ... | |
| South Dakota | No | South Dakota | No |
| Vermont | No | Vermont | No |
| Virginia | No | Virginia | No |
| ... | | Washington (x2) | Yes |
| West Virginia | No | West Virginia | No |
| Wyoming | No | Wyoming | No |

TABLE 3g

EFFECT OF REAPPORTIONMENT ON TERMS OF SENATORS

| State | All Senators Elected at Same Time | Senators Elected in Staggered Terms | Senators Will be Required to Run for Reelection | Senators Will be Allowed to Serve Out Term |
|---|---|---|---|---|
| Alabama | * | ... | ... | ... |
| Alaska | ... | * | * | ... |
| Arizona | * | ... | ... | ... |
| Arkansas | ... | * | * | ... |
| California | ... | * | ... | * |
| Colorado | ... | * | ... | * |
| Connecticut | * | ... | ... | ... |
| Delaware | ... | * | * | ... |
| Florida | ... | * | * | ... |
| Georgia | * | ... | ... | ... |
| Hawaii | ... | * | ... | * |
| Idaho | * | ... | ... | ... |
| Illinois | ... | *(a) | ... | ... |
| Indiana | ... | * | ... | N.A. |
| Iowa | ... | * | ... | *(b) |
| Kansas | * | ... | ... | ... |
| Kentucky | ... | * | ... | * |
| Louisiana | * | ... | ... | ... |
| Maine | * | ... | ... | ... |
| Maryland | * | ... | ... | ... |
| Massachusetts | * | ... | ... | ... |
| Michigan | * | ... | ... | ... |
| Minnesota | * | ... | ... | ... |
| Mississippi | * | ... | ... | ... |
| Missouri | ... | * | ... | * |
| Montana | ... | *(c) | * | ... |
| Nebraska | ... | * | ... | * |
| Nevada | ... | * | * | ... |
| New Hampshire | * | ... | ... | ... |
| New Jersey | * | ... | ... | ... |
| New Mexico | ... | * | * | ... |
| New York | * | ... | ... | ... |
| North Carolina | * | ... | ... | ... |
| North Dakota | ... | * | * | ... |
| Ohio | ... | * | ... | * |
| Oklahoma | ... | * | ... | * |
| Oregon | ... | * | ... | * |
| Pennsylvania | ... | * | ... | * |
| Rhode Island | * | ... | ... | ... |
| South Carolina | * | ... | ... | ... |
| South Dakota | * | ... | ... | ... |
| Tennessee | ... | * | ... | * |
| Texas | ... | * | * | ... |
| Utah | ... | * | * | ... |
| Vermont | * | ... | ... | ... |
| Virginia | * | ... | ... | ... |
| Washington | ... | * | ... | * |
| West Virginia | ... | * | ... | * |
| Wisconsin | ... | * | ... | * |
| Wyoming | ... | * | * | ... |

Key: N.A. - not available or not yet determined
(a) - all terms end in 1983
(b) - unless 2 or more incumbents are placed in same district
(c) - after each reapportionment, lots will be drawn for ⅓ the senators to serve an initial 2-year term. Subsequent elections will be for 4-year terms.

TABLE 3h

JURISDICTIONS COVERED UNDER SECTION 5 OF THE VOTING RIGHTS ACT

| State | Coverage | Date Covered |
|---|---|---|
| Alabama..... | Statewide | November 1, 1964 |
| Alaska..... | Statewide | November 1, 1972 |
| Arizona..... | Statewide | November 1, 1972 |
| California..... | Kings County | November 1, 1972 |
| | Merced County | November 1, 1972 |
| | Monterey County | November 1, 1968 |
| | Yuba County | November 1, 1968 |
| Colorado..... | El Paso County | November 1, 1972 |
| Connecticut ... | Groton Town | November 1, 1968 |
| | Mansfield Town | November 1, 1968 |
| | Southbury Town | November 1, 1968 |
| Florida..... | Collier County | November 1, 1972 |
| | Hardee County | November 1, 1972 |
| | Hendry County | November 1, 1972 |
| | Hillsborough County | November 1, 1972 |
| | Monroe County | November 1, 1972 |
| Georgia..... | Statewide | November 1, 1964 |
| Hawaii..... | Honolulu County | November 1, 1964 |
| Idaho..... | Elmore County | November 1, 1968 |
| Louisiana..... | Statewide | November 1, 1964 |
| Massachusetts.. | Amherst Town | November 1, 1968 |
| | Ayer Town | November 1, 1968 |
| | Belchertown | November 1, 1968 |
| | Bourne Town | November 1, 1968 |
| | Harvard Town | November 1, 1968 |
| | Sandwich Town | November 1, 1968 |
| | Shirley Town | November 1, 1968 |
| | Sunderland Town | November 1, 1968 |
| | Wrentham Town | November 1, 1968 |
| Michigan..... | Buena Vista Township | November 1, 1972 |
| | Clyde Township | November 1, 1972 |
| Mississippi.... | Statewide | November 1, 1964 |
| New Hampshire.. | Antrim Town | November 1, 1968 |
| | Benton Town | November 1, 1968 |
| | Millsfield Township | November 1, 1968 |
| | Newington Town | November 1, 1968 |
| | Pinkhams Grant | November 1, 1968 |
| | Ringe Town | November 1, 1968 |
| | Stewartstown | November 1, 1968 |
| | Stratford Town | November 1, 1968 |
| | Unity Town | November 1, 1968 |
| New York..... | Bronx County | November 1, 1968 |
| | Kings County | November 1, 1968 |
| | New York County | November 1, 1968 |
| North Carolina.. | Anson County | November 1, 1964 |
| | Beaufort County | November 1, 1964 |
| | Bertie County | November 1, 1964 |
| | Bladen County | November 1, 1964 |
| | Camden County | November 1, 1964 |
| | Caswell County | November 1, 1964 |
| | Chowan County | November 1, 1964 |
| | Cleveland County | November 1, 1964 |
| | Craven County | November 1, 1964 |
| | Cumberland County | November 1, 1964 |
| | Edgecombe County | November 1, 1964 |
| | Franklin County | November 1, 1964 |
| | Gaston County | November 1, 1964 |
| | Gates County | November 1, 1964 |
| | Granville County | November 1, 1964 |
| | Greene County | November 1, 1964 |
| | Guilford County | November 1, 1964 |
| | Halifax County | November 1, 1964 |
| | Harnett County | November 1, 1964 |
| | Hertford County | November 1, 1964 |
| | Hoke County | November 1, 1964 |
| | Jackson County | November 1, 1964 |
| | Lee County | November 1, 1964 |
| | Lenoir County | November 1, 1964 |
| | Martin County | November 1, 1964 |
| | Nash County | November 1, 1964 |
| | Northampton County | November 1, 1964 |
| | Onslow County | November 1, 1964 |
| | Pasquotank County | November 1, 1964 |
| | Perquimans County | November 1, 1964 |
| | Person County | November 1, 1964 |
| | Pitt County | November 1, 1964 |
| | Robeson County | November 1, 1964 |
| | Rockingham County | November 1, 1964 |
| | Scotland County | November 1, 1964 |
| | Union County | November 1, 1964 |
| | Vance County | November 1, 1964 |
| | Washington County | November 1, 1964 |
| | Wayne County | November 1, 1964 |
| | Wilson County | November 1, 1964 |
| South Carolina.. | Statewide | November 1, 1964 |
| South Dakota.... | Shannon County | November 1, 1972 |
| | Todd County | November 1, 1972 |
| Texas..... | Statewide | November 1, 1964 |
| Virginia..... | Statewide | November 1, 1964 |
| Wyoming ..... | Campbell County | November 1, 1968 |

TABLE 4

LEGISLATIVE REAPPORTIONMENT DATA PROCESSING ASSISTANCE

| State | Data Processing Assistance | Computer Graphics |
|---|---|---|
| Alabama | Yes - University of Alabama | ... |
| Alaska | Yes - Open | ... |
| Arizona | Yes - Datapol, Phoenix, Ariz. | ... |
| Arkansas | Yes - University of Arkansas, Industrial Research & Extension Center | * |
| California | Yes - Open | ... |
| Colorado | Yes - State Computer System | ... |
| Connecticut | Yes - Market Opinion Research | ... |
| Delaware | Yes - Unknown | ... |
| Florida | Yes - Legislative Data Processing Center | * |
| Georgia | Yes - Institute of Government, University of Georgia | ... |
| Hawaii | Unknown | ... |
| Idaho | No | ... |
| Illinois | Yes - Open | ... |
| Indiana | Yes - Open | * |
| Iowa | Yes - Prof. John Lilitschwager, University of Iowa | ... |
| Kansas | No | ... |
| Kentucky | Yes - State Data Processing | ... |
| Louisiana | Yes - State Planning Office | ... |
| Maine | Unknown | ... |
| Maryland | Yes - Open | ... |
| Massachusetts | No | ... |
| Michigan | Yes - Open | ... |
| Minnesota | Yes - APT | ... |
| Mississippi | Unknown | ... |
| Missouri | Yes - Open | ... |
| Montana | Unknown | * |
| Nebraska | Yes - State Central Data Processing | ... |
| Nevada | Yes - State Central Data Processing | * |
| New Hampshire | No | ... |
| New Jersey | Yes - Open | ... |
| New Mexico | No | ... |
| New York | Yes - Legislative Advisory Task Force on Reapportionment | * |
| North Carolina | Yes - Open | ... |
| North Dakota | Yes - Open | ... |
| Ohio | Yes - Open | ... |
| Oklahoma | Yes - State Data Processing | ... |
| Oregon | Yes - State Data Processing | * |
| Pennsylvania | Yes - State Legislative Data Processing Center | ... |
| Rhode Island | Unknown | ... |
| South Carolina | Yes - State Data Processing | ... |
| South Dakota | No | ... |
| Tennessee | No | ... |
| Texas | Yes - Synercom Technology, Inc. | ... |
| Utah | Yes - State Systems Planning; Wang Laboratories, Inc. | * |
| Vermont | Yes - Open | ... |
| Virginia | No | ... |
| Washington | Yes - Open | ... |
| West Virginia | No | ... |
| Wisconsin | No | ... |
| Wyoming | No | ... |

NOTE REGARDING THE FOLLOWING FRAME(S) ON MICROFILM:

COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES.

TITLE PAGE ONLY HAS BEEN FILMED.

# REAPPORTIONMENT AND REDISTRICTING PLAN FOR THE ALASKA STATE LEGISLATURE




Prepared by: The Reapportionment Board

June 10, 1981

common cause
2030 M STREET, N.W., WASHINGTON, D. C. 20036 (202) 833-1200

Archibald Cox
Chairman

David Cohen
President

John W. Gardner
Founding Chairman

Revised September 1980

## Model Reapportionment Amendment to State Constitution

Section ___. Legislative and Congressional Reapportionment.

(a) Reapportionment Mandate. In each year ending in one, the state shall be divided into as many congressional districts as there are United States Representatives apportioned to the state, as many representative districts as the number of members of the state house of representatives as provided by law, and as many senate districts as the number of members of the state senate as provided by law. [All legislative districts shall be single-member districts.]

(b) Reapportionment Commission. In each year ending in zero and at any other time of court ordered reapportionment, a commission shall be established to prepare a reapportionment plan for state legislative and congressional districts. The commission shall consist of five members, none of whom may be public officials. The president of the senate, the speaker of the house, the minority leader of the senate, and the minority leader of the house shall each select one member. The four members so selected shall select, by a vote of at least three members, a fifth member who shall serve as chair. Failure to select the

fifth member within the time prescribed by law shall constitute an impasse which shall automatically discharge the commission, and a new commission shall be appointed in the same manner as the original commission. The legislature shall establish by law qualifications of commissioners and procedures for their selection and filling of vacancies. The legislature shall establish by law the duties and powers of the commission and shall appropriate funds to enable the commission to carry out its duties.

[ALTERNATIVE SECTION/(b) Reapportionment Commission. In each year year ending in zero and at any other time of court ordered reapportionment, a commission shall be established to prepare a reapportionment plan for state legislative and congressional districts. The commission shall consist of seven members, none of whom may be public officials. The president of the senate, the speaker of the house, the minority leader of the senate, the minority leader of the house, and the chair of the political party that received the second highest vote in the previous gubernatorial election shall each submit to the governor and make public a list of not less than three persons. The governor shall appoint six members of the commission who are broadly representative of the people of the state including one person from each list and one additional person. The six members shall select, by a vote of at least four members, a seventh member who shall serve as the chair. Failure to select the seventh member within the time prescribed by law shall constitute an impasse which shall automatically discharge the commission, and a new commission shall be appointed in the same manner as the original commission. The legislature shall establish by law qualifications of commissioners and procedures for their selection

and the filling of vacancies. The legislature shall establish by law the duties and powers of the commission and shall appropriate funds to enable the commission to carry out its duties.]

(c) Reapportionment Standards.

(1) State legislative districts in each house shall have population as nearly equal as is practicable based on the population reported in the federal census taken in each year ending in zero. In no case shall the absolute value of the total percentage deviations of all districts of a house divided by the number of districts exceed two percent. In no case shall a district have a population which varies from the average population of all districts, unless a population variance is necessary to comply with one of the other standards set forth in this section. In no case shall a single district have a population which varies by more than five percent from the average population of all districts. When a petition challenging a plan adopted by the commission is filed with the supreme court, the commission shall have the burden of justifying any variance between the population of a district and the average population of all districts.

(2) Congressional districts shall have population as nearly equal as is practicable based on the population reported in the federal census taken in each year ending in zero. No district for election of members to the United States House of Representatives shall have a population which varies by more than one percent from the average population of all congressional districts in the state. When a petition challenging a plan adopted by the commission is filed with the supreme court, the commission shall have the burden of justifying any variance between the population of a district and the average population of all districts.

(3) To the extent consistent with subsections (1) and (2), district lines shall be drawn to coincide with the boundaries of local political subdivisions.

(4) Districts shall be composed of convenient contiguous territory.

(5) Districts shall be compact in form. The aggregate length of all district boundaries shall be as short as practicable consistent with the standards contained in subsections (1), (2), (3), and (4).

(6) The commission shall exercise its powers to provide fair and effective representation for all citizens, and, consistent with the criteria contained in subsections (1), (2), (3), (4), and (5), shall encourage electoral competition. No plan shall be drawn for the purpose of favoring any political party, incumbent legislator, or other person or group. In preparing a plan, the commission shall not take into account the addresses of incumbent legislators. The commission shall not use the political affiliations of registered voters, previous election results, or demographic information other than population head counts for the purpose of designing a plan that favors any political party, incumbent legislator, or other person or group.

(7) No district shall be drawn for the purpose of diluting the voting strength of any language or racial minority group.

(8) The legislature may define by law any of the standards enumerated in this subsection and may establish by law additional standards, not in conflict with the Constitution of the United States or this constitution, designed to guarantee fair and

Enclosure #3

common cause
2030 M STREET, N.W., WASHINGTON, D. C. 20036 (202)

Archibald Cox
Chairman

David Cohen
President

John W. Gard
Founding Chairman

September 1980

MEMORANDUM

To: State Chairs, State Offices

From: Bruce Adams, Director, Issue Development
Ted Stein, Research Associate

Re: Revisions to the Common Cause Reapportionment Model

Since its publication in 1977, the Common Cause reapportionment model has helped focus the debate over reapportionment reform in the states, and on the federal level. Some version of our model proposal has been introduced in more than twenty states. Reapportionment reform measures have been enacted or await voter approval in five states--Arkansas, California, Iowa, Minnesota, and Oregon. The Common Cause model has held up well under the intense spotlight of legislative debate. We have always recognized that our model offers a basic framework for reapportionment reform--not the final word. Based on discussions over the past three years with legislators, legislative staff, political scientists, and others, we believe that certain improvements can and should be made.

We have indicated the revisions on the attached copy of the Common Cause model constitutional amendment. A clean copy of the revised model amendment also in enclosed. Additional copies are available from Field Central. Keep in mind that if you decide to use the CC model statute, it will have to be modified to be

consistent with the revised amendment. A revised CC model statute is being prepared.

The revisions are as follows:

(1) Commission structure: The model should offer as an alternative the commission structure proposed in 1978 by the Florida Constitution Revision Commission (see page 2 of attachment, "Revisions to Reapportionment Model Constitutional Amendment"). This plan called for a seven-member commission. Six members would be appointed by the governor. The governor would select one and one each from lists supplied by the four legislative leaders and the chair of the opposite political party. The six members then would have selected a seventh member or tiebreaker. The potential advantage of this proposal over the original model is twofold. First, it allows the governor to provide for racial, ethnic, and geographic balance and diverse expertise in making appointments. This is aided by the size of the commission, which is larger than the five-member panel proposed by the CC model, and the fact that a single person makes the final choices. Second, the alternative places some distance between the legislature and commission appointments.

In addition, either commission structure (i.e., the CC model or the Florida alternative) should require that the commission be discharged if a deadlock develops over selection of the tiebreaker. (pages 1 and 2). Such a deadlock is a real possibility. In Montana, one of the three states with a commission system that meets our test, commissions have deadlocked twice over the selection of a tiebreaker--in 1973 and again in 1979. This same situation

occurred in Pennsylvania in 1971. In each case, the state's supreme court selected the tiebreaker. A discharge mechanism would provide a powerful incentive to select the tiebreaker. It also would avoid the possibility--raised by court participation--of a partisan tiebreaker in states where supreme courts are dominated by one party.

(2) Compactness: According to computer experts, our original compactness definition, which requires a plan's aggregate boundary length to be within five percent of the shortest possible aggregate length, raises serious practical problems. Finding the shortest possible aggregate length, these experts say, would greatly increase the necessary data base with a commensurate cost increase. We have deleted the five percent requirement (page 4). The revised standard still requires that the aggregate length of all district boundaries be as short as practicable. This establishes a standard beyond the mere requirement of compactness while avoiding the political and technical problems inherent in a complex mathematical formula.

(3) Fair representation: A reapportionment commission has an affirmative obligation to provide fair and effective representation for all citizens of the state. The need for "fair and effective representation" was eloquently stated in the Supreme Court's famous "one person, one vote" rulings of the mid-1960s. Within the constraints of the Common Cause standards, there are various ways that lines can be drawn to ensure or to undermine fair representation in the state legislature and in Congress. While the goal of fair and effective representation has always been Common Cause's guiding principle, the original model did

not directly state it. The revised CC model clearly states the objective as part of the sixth standard (page 4).

(4) Competition: In the past, reapportionment has been used to undermine electoral competition. Attempts to produce a bias in favor of incumbents or majority parties robs our political system of its vitality. Legislators who never face close re-election races are less responsive to their constituents. Reapportionment reform is designed to encourage competition, not discourage it. To guard against a bipartisan gerrymander by the bipartisan commission, we have added competition as a standard (page 4). It is important to note that the competition standard is to be used only after application of the more fundamental standards of population equality, respect for political subdivision, and compactness. Otherwise, the standard could lead to bizarre-shaped districts that did not respect city and county lines.

(5) Population deviation: To prevent line drawers from using population deviations to gerrymander, the model requires all population deviations to average one percent or less. This denies the majority party, for example, the opportunity to gain an advantage by making majority party districts underpopulated and minority party districts overpopulated. The revised model changes this standard in two ways (see page 3). First, the standard has been increased from one to two percent to insure that this test is not overly rigid. Second, it adds the word "percentage" to clarify that the average of all percentage deviations must be one percent or less.

(6) Anti-gerrymandering provisions: In the revised model, no reapportionment plan shall be drawn for the purpose of favoring any political party, incumbent legislator, or other person or group. The change in this standard involves the substitution of "plan" for "district" (page 4). This revision recognizes that to achieve fairness it may be necessary to benefit a certain political or ethnic group in one district and a second group in another. The key is that the overall plan does not purposefully favor or disadvantage any person or group. To be consistent, the use of political or demographic data to design a plan that favors any person or group is prohibited (page 5).

One additional point, not addressed in the attached revised model, involves the relationship of our proposal to the federal Voting Rights Act. Some legislators have incorrectly charged that the Common Cause model violates the Voting Rights Act. Among its provisions, the federal Act requires the Justice Department to invalidate any reapportionment plan or voting change that has a racially discriminatory effect--in certain states. Obviously, the federal Voting Rights Act would prevail over any state provision in the event that a conflict should arise between our model and the Act. This establishes a two-track system. First, states covered by the Voting Rights Act*--states with histories of discrimination

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*The Voting Rights Act of 1965, as amended in 1970 and 1975, requires Justice Department review of voting changes in nine states: Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, and Virginia. Some jurisdictions in another thirteen states are also covered: California, Colorado, Connecticut, Florida, Hawaii, Idaho, Massachusetts, Michigan, New Hampshire, New York, North Carolina, South Dakota, and Wyoming. In some of these thirteen states coverage is quite limited (e.g., four counties in California, five counties in Florida, two townships in Michigan). The Act will be in effect through most of the reapportionment of the 1980s--until August 1982 when it will be up for review by Congress.

against minority voters--would be subject to an effect test. Second, states not covered by the Act would be subject to the model's purpose test.

Attachment: Revisions to Reapportionment Model Constitutional Amendment

Enclosure: Model Reapportionment Amendment to State Constitution (Revised September 1980)

APPENDIX III: REAPPORTIONMENT: A BETTER WAY

Common Cause first proposed a model reapportionment process in 1977 for adoption at the state level. The model proposal relies heavily on the Colorado, Hawaii, and Montana reapportionment procedures.* The Hawaii and Montana processes were recommendations of constitutional conventions that received voter approval in 1968 and 1972, respectively, (Hawaii and Montana commissions draw congressional as well as state legislative boundaries.) The Colorado process was the result of a citizen initiative approved by the voters in November of 1974 by a vote ratio of three to two.

The Common Cause model proposes a reapportionment process designed to produce districts that are fairly drawn as well as districts of substantial population equality. Unlike district lines produced by political gerrymandering, fair district lines are not drawn to pre-determine election results. The model proposes a system of reapportionment that is equitable in its treatment of incumbent legislators, political parties, and others. This replaces the present system where people with political power are able to manipulate district lines for personal and partisan advantage.

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* A description of reapportionment commission activities in Colorado and Hawaii is found on page 26. Montana will not complete redistricting until 1983.

The Common Cause model has three main elements -- strict anti-gerrymandering standards; an independent, nonpartisan reapportionment commission; and prompt judicial review. All three elements of the model are crucial. They are designed to reinforce each other and to produce fairly drawn district lines. The reapportionment standards are designed to produce fair district lines by limiting the discretion of the commission to gerrymander for political or partisan purposes. The nonpartisan reapportionment commission replaces the legislature, providing much needed independence. Fair district lines are more likely if district lines are drawn by persons not directly affected by them. Judicial review provides finality and acts as the final safeguard of the public's interest in fair and effective representation.

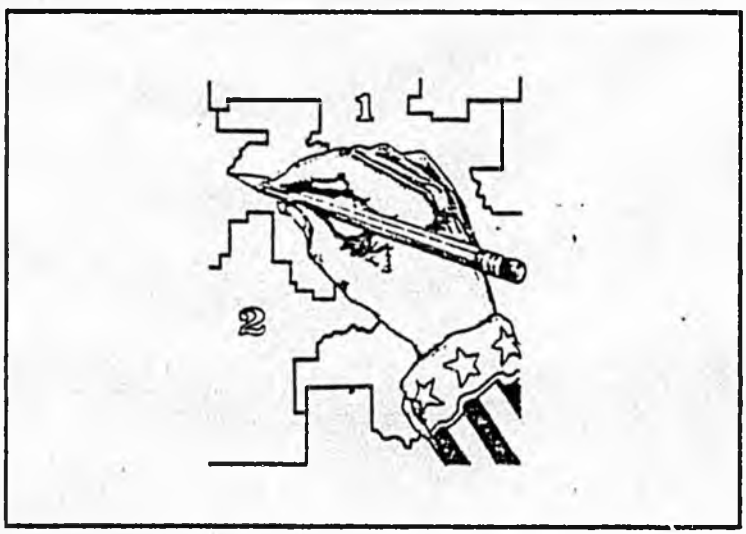
Four states have enacted legislation in the last three years that strengthens the standards that legislators must use in drawing congressional and state legislative districts -- California (1980), Iowa (1980), Oregon (1979), and Washington (1982). In addition, proposals to establish a redistricting commission will appear on November 1982 ballots in California and Missouri.

Common Cause will continue to lobby for reapportionment reform in the states. To obtain a copy of Common Cause's report on state and congressional reapportionment, Toward a System of Fair and Effective Representation, and the Common

Cause model reapportionment amendment to a state constitution, please call or write to the Common Cause Redistricting Clearinghouse, 2030 M Street, N.W. Washington, D.C. 20036 (202) 833-1200.

# Common Cause Report on Congressional and State Redistricting

June 1982 — Number Two




This is the second report
prepared by the Common Cause
Redistricting Clearinghouse

common cause

COMMON CAUSE REPORT ON CONGRESSIONAL AND STATE REDISTRICTING

This is the second report to be prepared by the Common Cause Redistricting Clearinghouse. This report focuses on state efforts to establish new congressional and legislative districts based on the 1980 census.

This study was researched and written by Marcy Stephens of the Issue Development Staff with the assistance of Joseph Zwerdling. Staff members Janet Kaufmann, Vicky Kim, and Phyllis Sickels also provided assistance.

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TABLE OF CONTENTS

I. Introduction ..... 1

II. Congressional Redistricting ..... 9

III. State Legislative Redistricting ..... 25

Appendix I. Table of Congressional Redistricting Facts ..... 31

Appendix II. Table of State Legislative Redistricting Facts ..... 33

Appendix III. Reapportionment: A Better Way ..... 35



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## INTRODUCTION

Every ten years citizens in many states observe their elected officials fighting to draw new election districts to accommodate population changes reflected in the latest U.S. census. Redistricting as a result of the 1980 census changes has been characterized by heavy litigation activity and skyrocketing costs. Once again, in this highly partisan process, Democrats and Republicans alike have proven that they can manipulate and "gerrymander" district lines with great skill and verve.*

A number of states are taking action to counter gerrymandering practices. Voters in California and Missouri, for example, will have a chance to vote on reapportionment reform measures on the November 1982 ballot. In both states the move to change the present system of redistricting -- requiring legislators to design their own districts -- was triggered by a sense of frustration over the 1980 redistricting events. In California, new congressional districts were likened to jigsaw puzzle pieces, while in Missouri the House and Senate deadlocked over redistricting congressional seats. A three-judge federal district panel ultimately drew up the final plan.

Except for Kansas and two states -- Maine and Montana -- that will act in 1983, congressional redistricting plans

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* The term "gerrymandering" is not new; it was inspired by the efforts of Governor Elbridge Gerry of Massachusetts in 1812. An attempt to gerrymander generally means an attempt at one of four things: (1) to protect an incumbent; (2) to gain partisan advantage; (3) to eliminate a political maverick; or (4) to exclude a racial minority.

based on the 1980 census are now drawn. Seven states must still complete redistricting for their own legislatures. However, court challenges or Justice Department rejection of plans under Section 5 of the Voting Rights Act has prolonged the process in many states. In some cases, primary election dates have been postponed until litigation has been resolved.

The purpose of this report is to examine the redistricting process, court activity, and the outcome of redistricting itself. A state-by-state status report for congressional redistricting is provided and a survey of interesting state legislative redistricting activity in 20 states follows.

Redistricting and the Courts

Article 1, Section 2 of the Constitution specifically provides that representatives be apportioned among the states according to population every ten years.* Despite this mandate, up until the 1960's many states failed to redistrict to adjust for population changes and the courts declined to get involved. The U.S. Supreme Court decisions of the mid-1960's established certain one-person, one-vote standards, requiring states to eliminate gross population inequalities in redistricting. Beyond that, however, the Supreme Court did not spell out specific substantive standards for redistricting. Few state constitutions describe in much detail either the procedure for preparation of reapportionment

* Technically, reapportionment is the distribution of seats among units of government and redistricting is the drawing of lines.

plans or the standards to be used in drawing congressional and legislative districts.

The absence of clear criteria for redistricting leaves map makers with wide discretion in drawing up plans. The results are often controversial. Consequently, lawsuits challenging redistricting plans have been brought by aggrieved political parties, citizens' groups, and individual citizens on a variety of issues. In this round of redistricting, most of the action has been at the federal district court level, although the Supreme Court has been involved in a number of actions concerning congressional plans as follows:

- On March 22, 1982 the U.S. Supreme Court rejected an appeal by California's Republican Party to overturn the State Supreme Court's decision to allow 1982 elections to be held in districts drawn by the Democratic legislature in September 1981.

- In Illinois, a Democratically-oriented map adopted November 23, 1981 in a ruling by a federal panel in Chicago was upheld by the U.S. Supreme Court.

- Republicans in Missouri and Minnesota appealed District Court decisions on redistricting to the U.S. Supreme Court. In both cases motions to expedite were denied. However, in summary dispositions on May 17, 1982 the high court affirmed plans for both states.

- On March 29, 1982, the U.S. Supreme Court refused to overturn a stay of a decision on New Jersey's congressional map granted by Associate Justice William Brennan. A federal panel had earlier declared the Democratic-styled plan unconstitutional.

- In April 1982, a number of New Mexico candidates asked the U.S. Supreme Court to stay a decision by a federal panel to delay the primary, because it found the plan for the state legislature to be unconstitutional. The U.S. Supreme Court approved the scheduled primary for all but legislative races.

- On May 3, 1982 the U.S. Supreme Court rejected an appeal to defer reapportionment of New York's state legislature until 1983. The appeal was made by state Senate Republicans.

- A Texas congressional map was drawn by the legislature in August 1981. A three judge federal panel, in February 1982, ordered changes in six districts. The U.S. Supreme Court subsequently ruled that the federal panel acted improperly in readjusting boundaries. However, the high court left it up to the federal panel to decide what plan will go into effect for the May 1 primary. The District Court opted to have its own version in place for the election.

In states where the legislature has responsibility for drawing redistricting maps and legislators have failed to produce a plan because the House and Senate could not agree or where the legislature passed a plan which was then vetoed by the governor, the federal courts have stepped in with maps of their own:

- In Arkansas, a three-judge panel overturned a commission drawn plan and absent any corrective action by the legislature, adopted its own map on February 25, 1982.

- In Colorado, the Governor vetoed three successive plans passed by the legislature. A federal panel in Denver finally approved its own plan on January 28, 1982.

- On May 24, 1982 a federal panel issued a decision adopting a congressional plan for Michigan. An appeal has been filed with the U.S. Supreme Court.

- A U.S. District Court in Minnesota adopted a congressional plan after the legislature failed to come up with a redistricting bill.

- In Missouri, on January 7, 1982, a federal court issued a map. The state Senate had adjourned without approving redistricting legislation.

- A three-judge federal panel in Columbia, South Carolina adopted its own congressional plan on March 8, 1982, when the legislature failed to adopt a plan by the court-imposed deadline.

Federal courts have found the respective congressional redistricting maps in Arkansas, Hawaii and New Jersey to be unconstitutional. (Details of congressional redistricting are provided in the state-by-state survey beginning on page 9.)

A number of state legislative maps have met with a similar fate. State legislative plans in Hawaii, Michigan, New Mexico, Oregon, Tennessee, Texas, and Virginia have been overturned in the courts. In Michigan, the court overturned the process by which state legislative redistricting is accomplished.

Court involvement in reapportionment is not a new phenomenon. According to a 1973 survey by the Massachusetts Legislative Research Council, courts determined districts for one or both houses in at least twenty-one states between 1962 and 1972 because the state reapportionment procedure failed to produce acceptable results.

Justice Department Approval of Redistricting Plans

States that are subject to the preclearance provisions of Section 5 of the Voting Rights Act because of evidence of past voting discrimination must submit their redistricting plans to either the Justice Department or the U.S. District Court in the District of Columbia for approval within 60 days (see Appendix II for a listing of states covered by the Voting Rights Act and the status of plans submitted to the Justice Department).

The Justice Department has issued objections to a number of plans where statewide preclearance is required. For example, congressional plans for Georgia, Mississippi and Texas were rejected by the Justice Department and must be resubmitted. Action on a number of other plans is still pending.

The Time and Money Factor

Apart from inciting cynicism by voters and legislators themselves over this highly partisan process, there are other visible drawbacks to the way this round of reapportionment has been conducted -- the time and the cost. This aspect of reapportionment is especially striking at a time when state governments -- which often meet in only two or three month sessions -- are facing grave financial difficulties.

The Los Angeles Times (March 13, 1982) reported that the "Democratic-controlled legislature ... has spent $2.7 million in public funds drawing new political districts." The L.A. Times compared California's expenses with the amount spent by the New York Legislature so far, cited as "about $2.5 million."

In Virginia in early April 1981, legislators made an inauspicious start at redistricting when they came up with a House of Delegates plan that created 101 districts; that is one more than is mandated in the Constitution. Since then two House plans were vetoed by former Governor John Dalton (R), one was declared unconstitutional in federal court, and

two plans were rejected by the Justice Department under Section 5 of the Voting Rights Act. The Washington Post (April 15, 1982) reported that "[t]he entire process, including 14 special sessions and bills paid to a Richmond law firm to defend the state in court, have been estimated to cost taxpayers $1 million."

Opting for Reform

Despite the inherent conflict of interest in having legislators design their own districts, efforts at reapportionment reform have not come easily. Legislators resist giving up the responsibility and generally turn a deaf ear to groups or individuals who are seeking a more equitable process.

This could, however, change in the 1980's. Large-scale reform efforts have been launched in a number of states:

° California - San Francisco's Field Institute published the results of a February poll that found greater than 4 to 1 disapproval among both Democrats and Republicans for the present system of redistricting. Citing redistricting abuses following the 1980 census and before, Republicans and Common Cause members teamed up to conduct a petition drive for a state constitutional amendment initiative to establish a nonpartisan commission. The proposed 10-member commission would be required to draw lines according to standards designed to promote fair and effective representation for all citizens of the state. If the amendment is approved by the voters in November, the commission will draw new lines for state Senate, House, and congressional districts in 1984.

° Missouri and Washington State, after struggling with reapportionment following the 1980 census, opted to establish commissions to remove direct control for drawing lines from the legislature. Missouri already has a commission structure for state legislative redistricting; the new commission, if approved by voters on the November ballot, will be responsible for drawing congressional lines. Washington legislators, after great pressure from Common Cause and other public interest groups, established a commission to conduct state legislative and congressional redistricting, following certain apportionment standards.

° Florida, Virginia, and South Dakota - Other reform efforts have been specifically focused on standards for redistricting. Common Cause/Florida lobbied successfully for state legislative plans that included single member rather than multi-member election districts and a congressional plan that creates compact districts of convenient contiguous territory. Virginia adopted a House of Delegates plan (approved by the U.S. Justice Department) that is comprised of only single member districts. In the past Virginia had traditionally elected delegates from citywide, at-large districts. Both states hope to see improved minority access under their new single member plans. In South Dakota, the Farmers Union, AFL-CIO, League of Women Voters, We the People, ACORN, and Common Cause are conducting a petition drive to initiate a constitutional amendment to create certain single-member Senate districts to replace current multi-member districts in three urban areas.

Overview of Congressional Redistricting

The political parties have proven that they will gerrymander if they have the opportunity to do so. For example, an initial victory by Republicans in Indiana -- where the GOP turned a 6-5 Democratic edge to a projected 7-3 Republican majority of congressional seats -- was revenged by Democratic map makers in California, where the Republicans could lose five seats.

1980 census changes resulted in a 17-seat shift of congressional seats, mainly frostbelt to sunbelt. Republicans, who launched an expensive and sophisticated congressional reapportionment campaign, anticipated a gain of 10 to 12 congressional seats. But Democrats hold both houses of state legislatures in 28 states, and they proved to be tough opponents. The Baron Report (March 1, 1982) summed up the action this way: "The result, with some plans in major states still uncertain, is that reapportionment, per se, will be a 'wash' for the two parties."

Maine and Montana will not redistrict until 1983; otherwise, only Kansas must finish drawing up a congressional district plan. The Kansas legislature adopted two plans -- each subsequently vetoed by the Governor.

Georgia, Mississippi, and Texas are struggling to win Justice Department approval of their congressional redistricting plans. In other states, litigation surrounding new maps threatens to prolong reapportionment action to the end of 1982, or beyond.

The following is a summary of the action on congressional redistricting:

ALABAMA - The Democratic legislature passed a redistricting plan which was signed into law by Governor Forrest James (D) on August 18, 1981. The current congressional makeup -- four Democrats and three Republicans -- is not likely to change. The American Political Report (August 28, 1981) notes that the plan by the state legislature "makes only minor adverse changes in GOP'er Albert Lee Smith's sixth district." The state's other six districts are essentially unchanged. The Justice Department precleared the legislature's plan on February 26, 1982.

ACTION: Complete

ALASKA - One congressional district

ARIZONA - On December 7, 1981 Arizona legislators voted to override Democratic Governor Bruce Babbitt's veto of a congressional plan. Within minutes of the override, the Democratic party filed a suit in federal district court, attacking the constitutionality of both the congressional and state legislative plans and charging Voting Rights violations (Art Hamilton v. Babbitt). There is also a petition drive to put the map on the referendum ballot on November 2, 1982. Congressional Quarterly (January 30, 1982) terms the new Arizona districts "a quandary for Udall." Democratic Rep. Morris K. Udall's Tuscon base was split in the creation of a fifth congressional seat.

On April 2, 1982 a Phoenix Federal District Court issued a settlement plan redrawing both the state legislative and congressional plans to eliminate the splitting of San Carlos Apache Reservation. The settlement plan requires Justice Department approval. Justice had previously rejected the plan because of dilution on the San Carlos Apache Reservation.

ACTION: Complete

ARKANSAS - In March 1981 Arkansas became the first state to draw new congressional district lines based on the 1980 census. Residents and state representatives of Garland County (Hot Springs) filed a lawsuit in district court (Doulin v. White) charging that the legislature could have adopted a plan that has a lower population deviation and more compact districts.

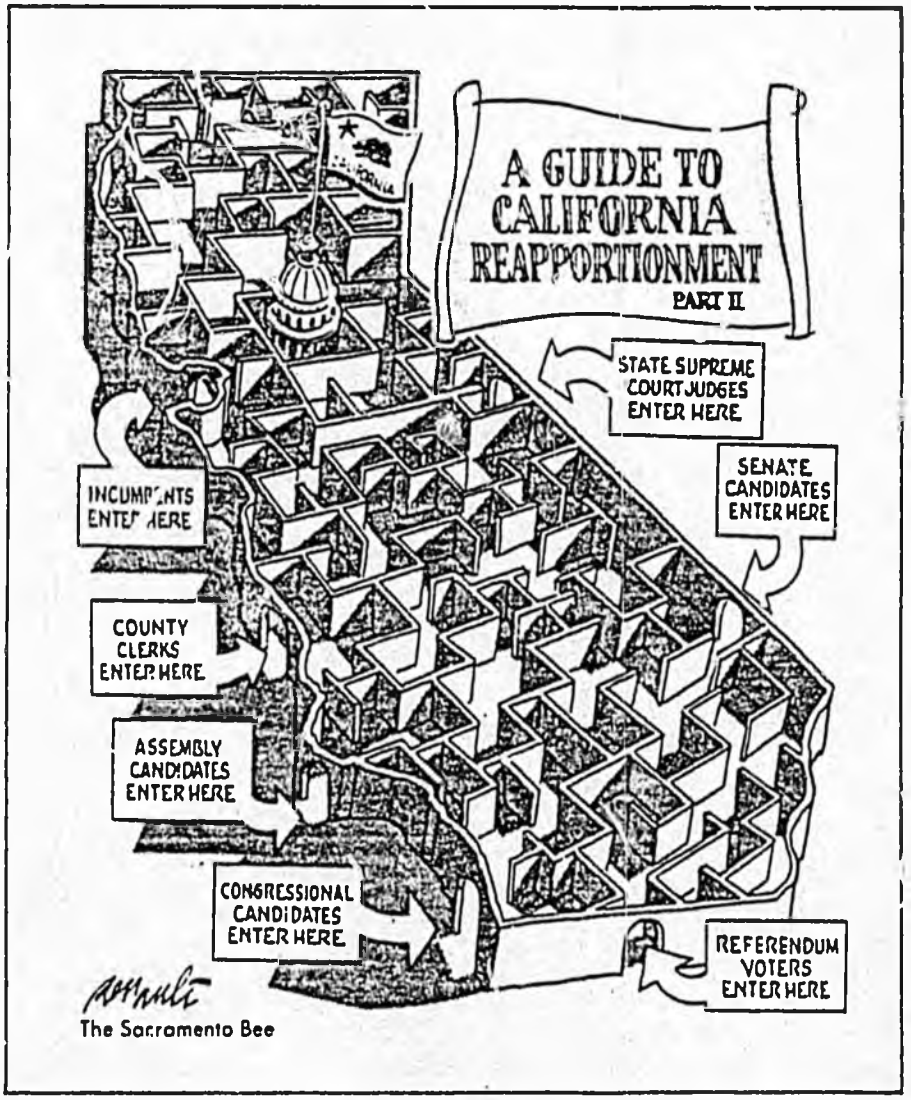
On January 6, 1982 a three-judge federal panel held that the plan was unconstitutional. On February 25 the Court, in the absence of any corrective action by the legislature, issued an opinion adopting its own redistricting plan for the 1982 elections, reflecting a .78% population deviation. On March 8 the Court denied the plaintiffs' motion to reconsider. The deadline for filing an appeal to

the Supreme Court is 60 days from that date, and it is not expected that an appeal will be filed.

According to Congressional Quarterly (March 6, 1982), the Court's plan "will have little effect on the re-election efforts of the state's incumbent House members." (Two Republicans and two Democrats.)

ACTION: Complete

CALIFORNIA - The Los Angeles Times (September 18, 1982) reported that on September 16, 1981 Democratic Governor Edmund Brown, Jr. signed a redistricting package: "All three Democratic-oriented bills were designed to perpetuate the political party now in power ..." Observers say that under the new plan -- drafted by Representative Phillip Burton (D) -- the Republicans could lose at least five congressional seats.




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On November 18, 1981 the California Republican Party submitted enough petition signatures to election officials to require a referendum on the June 1982 primary ballot regarding the three redistricting bills. The State Supreme Court was forced to come to a decision about which districts the candidates will run in this year. The Court decided to allow the Democratic plan to go into effect for one year only, allowing the referendum to take place. If the bills are rejected in June, the legislature will be required to redistrict again next year. In March 1982, the U.S. Supreme Court rejected an appeal by the California Republican Party to overturn the State Supreme court's decision.

Meanwhile, the State Republican Committee and Common Cause launched an initiative to establish a ten-member independent redistricting commission. The initiative drive, begun in January 1982, is targeting the November election.

ACTION: Complete -- referendum and initiative pending

COLORADO - Colorado gains a sixth congressional seat (there are now three Democrats and two Republicans). In December 1981, "[t]hree federal judges began trying to do what the Colorado Legislature and governor couldn't -- redraw congressional district boundaries" (Denver Post, December 4, 1981). This action followed a series of three vetoes by Republican Governor Richard Lamm of three redistricting bills.

On January 28, 1982, a three judge panel in Denver issued a court drawn plan which protects the current officeholders and puts the new sixth district in Republican Denver suburbs.

ACTION: Complete

CONNECTICUT - A General Assembly Committee failed to draw congressional districts so a nine-member commission took over the task. The commission, on October 28, 1981, adopted a "Democratic plan that made minimal changes in the 6th District ... less Republican in makeup than it would have been under the GOP plan. Other incumbents appear strengthened" (Washington Post, February 14, 1982). Connecticut retains six congressional seats.

ACTION: Complete

DELAWARE - One congressional district

FLORIDA - Florida picked up four congressional seats, the largest increase of any state. The House and Senate resisted compromise over a new map, prompting two lawsuits (Kiser v. Firestone and Buoniconti v. Firestone). The suits were consolidated in U.S. District Court in Tallanassee. However, the legislature arrived at a plan on May 21, 1982. Governor D. Robert Graham signed the plan two days later; however, Rep. Curtis Kiser (R), whose lawsuit asks the federal court

to draw a plan, "declined to withdraw a lawsuit on the matter until his lawyer returns next week," according to the Washington Post (May 25, 1982).

ACTION: Complete -- litigation pending

GEORGIA - Georgia's congressional map was signed by Governor George Busbee on September 22, 1981 and submitted to the Justice Department for Voting Rights clearance on October 1. In February 1982 the Justice Department objected to the congressional (and state House and Senate) plans. The Washington Post reported (February 12, 1982) that Justice objected to the 'division between two congressional districts of a 'cohesive black community' in Fulton and Dekalb counties in the Atlanta metropolitan area."

The U.S. District Court in the District of Columbia will hear a suit by the state of Georgia, appealing the Justice Department decision (Busbee v. Smith, et al.)

ACTION: Justice Department rejected plan -- litigation pending

HAWAII - A nine-member reapportionment commission that is responsible for conducting redistricting approved new congressional districts on September 28, 1981.

On March 23, 1982 a three-judge federal panel heard two redistricting challenges; however, only one of these suits (Craig Travis, et al. v. Jean King, et al.) concerns congressional redistricting. Plaintiffs challenged the use of voter registration, instead of census data, as a reapportionment base and charged malapportionment and gerrymandering in the congressional and legislative plans.

On March 25, the federal panel determined that the State legislative and congressional maps were unconstitutional based on the voter base issue and unacceptable population deviations. The federal court appointed special masters to supervise redrawing of the three maps. New maps were submitted to the Court on April 28, and approved in early May.

ACTION: Complete

IDAHO - Idaho keeps the same number of congressional seats (it has two, both Republican). Democratic Governor John Evans signed the congressional redistricting plan on July 29. The major action in the July special session concerned a shift of voters from the first to the second congressional district. Steve Ahrens of the Idaho Statesman (August 17, 1981) commented: "Not since 1964 have the Democrats elected a Congressman in the first district. The loss of 21,000 votes doesn't help their chances in 1982.

ACTION: Complete

ILLINOIS - Legislators -- who had the task of remapping a drop from 24 to 22 representatives -- could not come up with a plan. A three-judge federal panel charged with the responsibility subsequently considered Democratic, Republican, and bipartisan plans respectively, and "approved a Democratic-sponsored congressional redistricting proposal that would eliminate the seats of two Republicans and preserve the seats of two Democrats," according to the New York Times (November 24, 1981).

Republican legislators, including state House Speaker George H. Ryan, appealed the decision of the federal panel. In the first reapportionment case based on the 1980 census to reach the Supreme Court, the high court issued a one-line order upholding the congressional map. The Chicago Sun Times (November 24, 1981) reported that House Democratic Leader Michael J. Madigan, of Chicago, said the map "gives Democrats a strong edge in 10 districts, gives Republicans an edge in 11 districts and produces one swing district in central Illinois now represented by Republican Representative Paul Findley."

ACTION: Complete

INDIANA - The Indiana congressional plan was signed by Republican Governor Robert Orr on May 5, 1981. Indiana Republicans, who have sizable majorities in both legislative houses, used the most sophisticated computer technology available to draw up their plans. Pollster Robert Teeter's Market Opinion Research provided mapmakers with 92 separate items of information on the state's subdivisions according to The Washington Post (May 11, 1981). The Indiana Republican leadership has been candid about its reapportionment effort. Bruce Melchert, Indiana Republican chairman, told ABC news on July 22 that "there are three or four incumbent Democrats that we would like to see defeated." That would mean a transformation of the present 6-5 Democratic edge to a Republican 7-3 majority (Indiana lost one seat).

As Congressional Quarterly (May 2, 1981) describes the plan: "Its lines weave in and out of counties, concentrating Democratic voting strength into three districts and creating seven others in which the GOP believes it can win." The major victims of this design were Watergate Democrats Philip Sharp, David Evans and Floyd Fithian, whose districts were balkanized. Fithian's and Evans' districts were dispersed into four new congressional districts. Evans, Sharp, and Democratic Representative Lee Hamilton now live in the same district. The Republicans, in an attempt to try the case before a friendly judge, quickly requested a ruling on the constitutionality of their plan from the Marion Circuit Court. In an attempt to move the case to a more friendly court, the Democrats removed to federal court and filed a motion to dismiss, arguing that there was no case or controversy. The federal district court agreed and dismissed the

suit, because, at the time, no defendants said they were prepared to argue that the plan was unconstitutional.

ACTION: Complete

IOWA - Legislators rejected an initial plan that the legislature's nonpartisan research bureau produced, putting GOP Representatives Tom Tauke and Jim Leach in the same district. (Iowa's six-man delegation is currently split, three Republicans and three Democrats, and the Governor and the Legislature are Republican). American Political Report on July 3, 1981 reported that the Legislature rejected the second plan because "incumbent GOP Representative Tom Tauke got a shaky district." A third plan was finally passed on August 14. It puts Democratic Representatives Neal Smith and Tom Harkin in the same district, but Harkin is apparently expected to move elsewhere in his state to seek re-election. The Des Moines Register (August 14, 1981) stated that the approved redistricting plan will end up "preserving the balance between parties."

ACTION: Complete

KANSAS - Governor John Carlin (D) vetoed a congressional plan (SB 664) on February 18, 1982. The Kansas City Times (February 19, 1982) stated that Governor Carlin accused Republican lawmakers of "drawing a map without hearing from Democrats," and of splitting "the state's two metropolitan areas, Kansas City and Wichita, among congressional districts." Governor Carlin vetoed a second version as well. This action prompted two court challenges, which have been consolidated by a federal district court. Democrats are asking the court to take over responsibility for redistricting (O'Sullivan v. Brier). Republicans are seeking court approval of the plan passed by the legislature (Carson v. Carlin).

ACTION: Congressional plan vetoed

KENTUCKY - A congressional map was signed by Governor John Y. Brown, Jr. (D) on March 10, 1982 (HB 235). Kentucky has seven congressional seats (no losses or gains). American Political Report (February 26, 1982) noted that "Democrats think that redistricting gives them a better shot at defeating GOP Rep. Gene Snyder."

ACTION: Complete

LOUISIANA - Louisiana Governor David Treen (R) signed the state's congressional plan on November 19, 1981. The Morning Advocate observed that the "new congressional districts will look much like the present ones -- to the benefit of Louisiana's eight present members of Congress."

A lawsuit asking the Court to allow candidates to run in the old congressional districts was filed in district court (Robert E. Couhig v. James L. Brown). A second lawsuit -- charging one person, one vote violations and minority voting dilution in congressional and state house redistricting -- was also filed in district court (Barbara Major v. David Tree and James Brown).

ACTION: Complete - litigation pending

MARYLAND - The General Assembly needed to approve eight congressional districts (no change in the number of districts). Legislators completed their task on April 9, 1982.

ACTION: Complete

MASSACHUSETTS - The Boston Globe (December 10, 1981) reported that, "[the] Special Commission on Redistricting adopted a plan ... which carves 11 new districts out of the present 12 and merges the districts of Frank and Heckler." The plan was approved by Governor Edward J. King (D) on December 16, 1981.

ACTION: Complete

MICHIGAN - also loses one congressional seat, leaving the state with 18 districts. On April 8, 1982 the House adopted a plan, giving it immediate effect. On April 8, the Senate adopted a bill, but did not give it immediate effect. Governor William G. Milliken (R) vetoed the plan on April 27. A three-judge federal panel held hearings on May 7 on proposed plans submitted by the parties (Acerstrand v. Austin), and on May 24 the court issued a decision adopting a plan. The Republican party filed an appeal with the U.S. Supreme Court.

ACTION: Plan vetoed -- litigation pending

MINNESOTA - On March 11, 1982 a three-judge panel issued a plan for Minnesota's eight congressional districts. The Court took over responsibility for adopting a plan following its ruling of September 30, 1981, in which it required the state's legislature to submit both congressional and legislative maps to the court by January 29 (Lacomb v. Joan Growel). The court acted when the legislature failed to meet the deadline. American Political Report (March 12, 1982) stated that the new court-drawn map "essentially mirrors the Democratic plan. GOP Rep. Tom Hagedorn's seat was wiped out, throwing him in a new district with freshman GOPer Vin Weber ..."

The Republican congressional delegation appealed the decision to the U.S. Supreme Court. The St. Paul Pioneer Press (March 25, 1982) reported that Independent-Republican

party attorneys "argued that the panel exceeded its constitutional authority by departing dramatically from existing congressional district lines and carving out a new district within the Twin Cities metropolitan area." The U.S. Supreme Court denied a motion to expedite on April 5, 1982. On May 17, 1982 the U.S. Supreme Court upheld the plan.

ACTION: Complete

MISSISSIPPI - Governor William Winter (D) signed the congressional redistricting plan on August 28 -- the conclusion of a special summer session. The Jackson Clarion-Ledger (August 28, 1981) reported that the plan shifted six counties and parts of four other counties between districts and has been termed the "least change plan." The plan maintains five white majority districts. The overall population variance was low (.0336 percent) but the state split county lines for the first time.

Justice Department approval is required. On January 11, 1982 Justice requested additional information on the redistricting plans. On March 30, Justice rejected the congressional remap because of the minority makeup of the Delta area. The state of Mississippi is appealing the Justice Department rejection in U.S. District Court in the District of Columbia.

Two lawsuits have been filed challenging the new congressional remap for one person, one vote and Voting Rights Act violations. The suits (David Jordon v. William Winters & Owen H. Brooks v. William Winters) have been consolidated in U.S. District Court.

ACTION: Justice Department rejected plan

MISSOURI - The Missouri state House approved a congressional map, but the state Senate could not come to an agreement on nine new congressional seats (Missouri lost one district). A U.S. District Court three-judge panel filed its own plan on January 7, 1982, making it "the second time in the last two decades a federal panel has had to come up with a congressional map because of lawmakers' inability to reach agreement." Kansas City Times (Dec. 29, 1981). The court drew up its new map by essentially eliminating the rural central Missouri district of Republican representative Wendell Bailey. The three Democratic congressional seats in St. Louis, however, appear to be safe.

An appeal of the District Court decision was filed with the U.S. Supreme Court by officials of the local Farm Bureau and others (Schatzle, et al. v. Kirkpatrick). On March 29, 1982, a motion to expedite was denied by the Supreme Court. On May 17, the U.S. Supreme Court affirmed the lower court's plan.

ACTION: Complete

NEBRASKA - enacted a plan which was signed by Governor Charles Thone (R) on May 29, 1981. As the Baron Report (June 22, 1981) puts it, "GOP governor ... Nonpartisan GOP legislature ... Three GOP districts ... Little population shifts ... Add up to no change."

ACTION: Complete

NEVADA - now has two congressional seats instead of one. Questions about where to put the second congressional district culminated in a plan which creates one Las Vegas district and one district spreading across the rest of the state. (There had been talk of an east-west split.) The American Political Report (June 19, 1981) figures that the southern seat (Las Vegas) is sure to be Democratic (as it is now) and that the northern district "could go either way but probably leans to the GOP."

ACTION: Complete

NEW HAMPSHIRE - maintains its two congressional seats (one Democrat, one Republican). Democratic Governor Hugh Gallen signed the new congressional remap on March 4, 1982.

ACTION: Complete

NEW JERSEY - In a final action before leaving office, Democratic Governor Brendan Byrne signed a congressional remap developed by the Democratic legislature. New Jersey had the task of cutting back from 15 to 14 districts. Congressional Quarterly (March 6, 1982) noted that "The map had joined the districts of two Republican incumbents, created a new Democratic-leaning constituency and presented several Democratic incumbents with safe seats."

New Jersey Republicans challenged the plan based on its population deviation (0.69 percent), and on March 3, 1982 a three-judge federal panel, in a 2-to-1 vote, declared the plan unconstitutional because it violated the one person, one vote requirement.

On March 11, 1982, Democrats filed a request for a stay with Supreme Court Justice William J. Brennan, Jr., which was granted pending an appeal to the Supreme Court. New Jersey Republicans requested an expedited hearing; however, on March 29 the court rejected a request by New Jersey Republicans to vacate the stay. Subsequently, Republicans filed another lawsuit in an attempt to have the plan voided on the grounds that the redistricting process was not done in accordance with the state constitution.

ACTION: Litigation pending

NEW MEXICO - added one seat to give it three congressional districts. A new map was signed by Governor Bruce King (D) on January 19, 1982. Congressional Quarterly (January 23, 1982) noted that the plan "places New Mexico's new congressional district in the Albuquerque area and divides the rest of the state roughly between a district in the north and one in the south."

In April 1982, a federal court held that the plan was constitutionally impermissible based on the use of a votes-cast formula to estimate precinct populations and sent the plan back to the legislature. However, the U.S. Supreme Court allowed a June 1 primary for all but state legislative races, staying the federal court order that could have delayed the election.

ACTION: Complete

NEW YORK - New York's congressional delegation had to be reduced from 39 to 34 seats. As expected, the Senate and Assembly deadlocked over a plan. Senate Republicans appealed to the U.S. Supreme Court to stay a lower court order to complete a plan by May 10 (Flateau, et al. v. Anderson, et al.). The U.S. Supreme Court rejected the appeal.

The legislature enacted a congressional redistricting bill on May 11, amended May 17, and signed by the Governor on May 20. In spite of this, the court-appointed master in the pending U.S. District Court suit is reported to be proceeding to draw up his own proposed map. It is not clear what course this court proceeding will take.

American Political Report (May 21, 1982) stated: "If the congressional remap put through by the legislature holds up, the major face-offs necessitated in the new districts -- New York lost 5 seats -- will be Rep. Ben Gilman (R) vs. Rep. Peter Peyser (D), Rep. Guy Molinari (R) vs. Rep. Leo Zeferetti (D), Rep. Ted Weiss (D) vs. Rep. Jonathan Bingham (D), Rep. John Le Boutillier (R) vs. Rep. Greg Garman (R), unless Garman decides not to seek re-election. If the remap is accepted by the governor, courts and the Justice Department, Democrats would wind up bearing most of the burden..."

ACTION: Complete -- litigation pending

NORTH CAROLINA - On August 4, 1981, The Southern Political Report stated that, "the North Carolina legislature completed action on a redistricting plan that helps incumbent Congressmen and encourages a continuation of the 7 Democrats - 4 Republicans ratio on the Tarheel delegation." Under the plan, Representative L.H. Fountain's new district was nicknamed "Fountain's Fishhook" because of the way it wound around Durham county, a black-dominated area that had been proposed for inclusion in the conservative Fountain's district.

As required by the Voting Rights Act, the Justice Department reviewed the plan and failed to preclear the congressional map. The congressional map was rejected on the grounds that it diluted black voting strength.

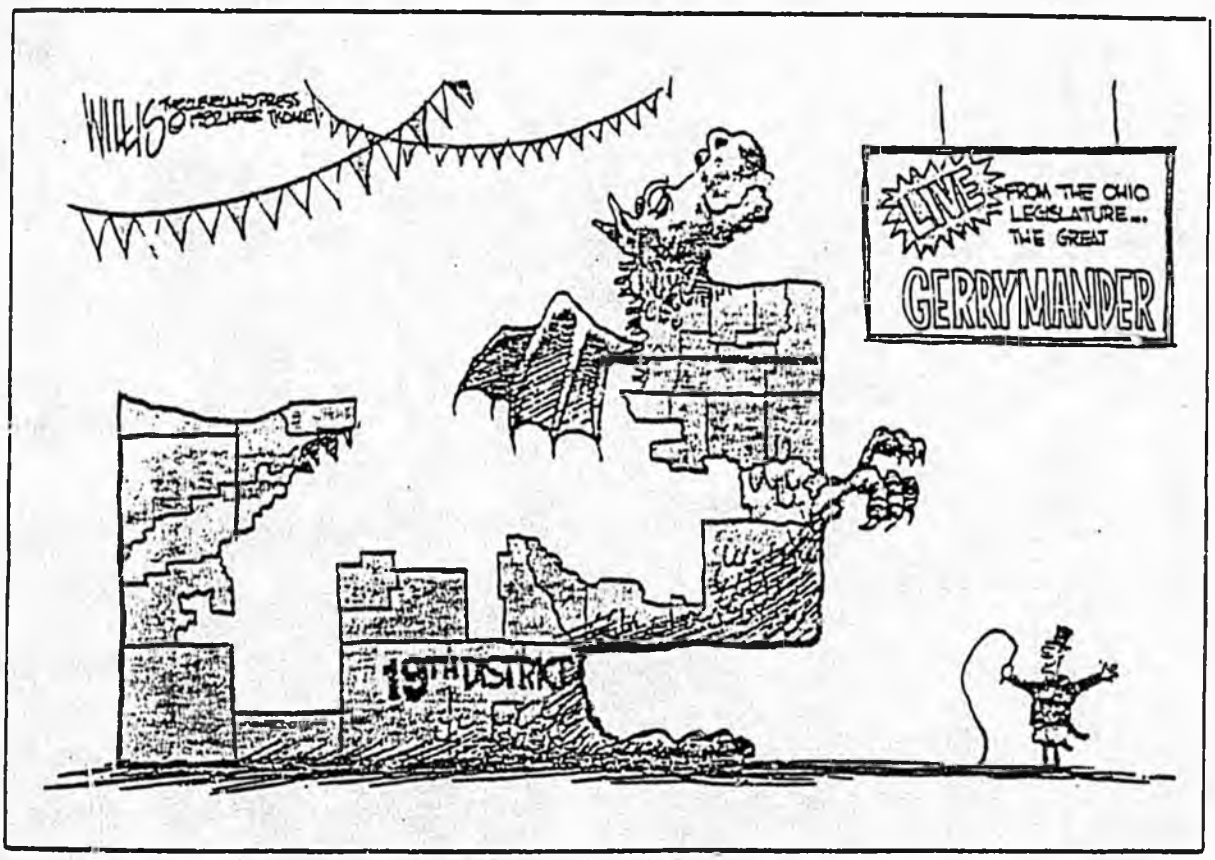
In February 1982 the North Carolina General Assembly passed a new plan that includes Durham County in Representative Fountain's 2nd district. In March the Justice Department precleared the plan.

Meanwhile, the NAACP Legal Defense and Education Fund had challenged the congressional base based on the racial dilution issue (Gingles v. Edmisten).

ACTION: Complete -- pending litigation

NORTH DAKOTA - One congressional district

OHIO - Redistricting means a loss from 23 to 21 seats (the current delegation is now 10-D, 13-R). A bill was finally signed by Governor James Rhodes (R) on March 25, 1982. According to the Columbus Citizen-Journal (March 25, 1982): "The final version basically protects most incumbent congressmen but knocks out the 17th District now held by Republican Rep. John M. Ashbrook of Johnstown, a candidate for the U.S. Senate. It also consolidates the districts of Democratic Reps. Eckart and Ronald M. Mottle of Parma, forcing them to run against each other this year." The




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district in which they have been placed (District 19) has been called the Pac-Man district because its shape is similar to a route in the electronic game (see cartoon on page 20).

Ohio Democrats have intervened in a pending U.S. District Court suit (Patrick Flanagan v. Gillmor) to challenge the constitutionality of the plan.

ACTION: Complete -- litigation pending

OKLAHOMA's congressional district plan was signed by Democratic Governor George Nigh on July 22, 1981. The state has six seats (currently five Democrats and one Republican) and American Political Report (July 31, 1981) has noted that the new lines "solidify most of the state's Congressmen."

The Oklahoma Republican Party obtained the 92,000 signatures needed to validate an initiative petition asking voters to repeal the redistricting plan and enact a substitute plan. Initiative News Report (March 22, 1982) noted that "the State Supreme Court ruled in late February hearing to allow initiative opponents to re-check petition signatures ... until the end of April. Then, the Court must rule on 5/26/82 on ballot placement." Regardless of the pending initiative, however, congressional candidates in the November, 1982 election will run on the basis of the redistricting plan already enacted.

ACTION: Complete -- pending litigation and initiative

OREGON - The Democrats control the legislature and have a 3-1 edge in Congress. The state picks up a new district. According to Congressional Quarterly (August 8, 1981), "the redistricting bill gives Republicans a good chance to win the state's new 5th district and assures GOP control in the 2nd district." Democrats should retain control of their three congressional seats under the new plan. Governor Victor Atiyeh (R), voicing objections to diluted GOP voting strength in a Portland suburb, allowed the bill to become law without his signature.

ACTION: Complete

PENNSYLVANIA - must drop two of its 25 seats. The current delegation is 13 Republicans and 12 Democrats, following Representative Eugene V. Atkinson's switch from the Democratic to the Republican party in October 1981. On March 2, 1982 -- after many months' effort and in the face of potential federal court action and a March 9 primary filing date -- the Legislature approved a plan. Republican Governor Richard Thornburgh signed the plan on March 3.

Congressional Quarterly (March 6, 1982) noted that under the new plan, "[t]wo pairs of incumbent Democrats -- John P. Murtha and Don Bailey in the western part of the state, and Thomas M. Foglietta and Joseph F. Smith of

Philadelphia -- will have to run against each other for renomination. Democrat Doug Walgren's Pittsburgh-area district becomes more difficult for him to win, and Republican convert Eugene V. Atkinson is given territory in which he has a good chance to hold on." Lawsuits challenging the plan were filed by Democratic officials and a number of other groups. The consolidated suits were the subject of a hearing before a three-judge federal panel in March 1982. (In Re: Pennsylvania Congressional Districts Reapportionment Cases.)

ACTION: Complete -- litigation pending

RHODE ISLAND - has two congressional seats (no gains or losses). On April 2, 1982 the legislature completed action on a Congressional plan. The plan became law without the governor's signature.

ACTION: Complete

SOUTH CAROLINA - A legislative conference committee was unable to reach a compromise on South Carolina's six seats (2 Democratic, 4 Republican), so a three-judge panel U.S. District Court took over the task and adopted its own congressional redistricting plan on March 8, 1982. There is discussion of an appeal by the NAACP.

ACTION: Complete -- litigation possible

SOUTH DAKOTA - One congressional district

TENNESSEE - The legislature enacted a congressional redistricting plan in 1981. Currently Democrats have a 5-3 edge and control the legislature. Reportedly they were shooting for a 7-2 margin in Congress (the state picks up a seat). Observers say the newly-created 4th district, which has no incumbent, looks like a salamander because of the way it winds halfway across the state -- apparently made up of leftover counties from other districts. On August 25, 1981 the Tennessee Journal commented that "the makeup of the district leans slightly Democratic but a strong Republican candidate could have a good chance of winning." Democrats also targeted the new 7th district, but in the end the shift of precincts won't affect the number of Democrats and Republicans voting in the district. Republican Governor Lamar Alexander allowed the plan to become law without his signature.

ACTION: Complete

TEXAS - picks up three new seats (the current delegation is 19 to 5 Democratic). Last summer Republicans and conservative Democrats joined forces to give Republican Governor William Clements "precisely what he demanded -- a

Dallas -- Fort Worth minority district and improved Republican prospects statewide," according to the Dallas Morning News (August 11, 1981).

A lawsuit, charging racial discrimination (Seamon v. Clements) was filed in U.S. District Court. On January 29, the Justice Department filed objections concerning two southern districts, noting dilution of Hispanic voting strength.

On February 27, a three-judge federal panel ordered a redrawing of six congressional districts. According to the New York Times (February 29, 1982), "The plan adopted by the Federal judges would eliminate any distinctly black district for Dallas County. The court plan would also create a new district that appears likely to be won by a Republican."

Republicans appealed to the U.S. Supreme Court, which indicated that the lower court drew a congressional plan when the legislature's plan was not found to be unconstitutional or to violate the Voting Rights Act. The Supreme Court noted that the three-judge panel could make the redistricting change before or after the May 1 primary, as long as the legislature's map is in place for the next election. The federal court, on April 5, ordered the May 1 primary to be held under the federal court's plan.

ACTION: Plan must be redrawn by court order

UTAH - has two Republican seats and picked up a seat. The legislature adopted a congressional redistricting plan on October 30, 1981. As Congressional Quarterly (January 2, 1982) puts it: "the GOP dominated Legislature saw to it that Republicans have a strong chance of winning all three districts in 1982."

ACTION: Complete

VERMONT - One congressional district

VIRGINIA - The Democratic Virginia General Assembly adopted a redistricting plan on May 1 that "fails to loosen the Republican party's stranglehold on the state's 10-member U.S. House delegation," according to The Washington Post (May 2, 1981). Republican Prince William County was moved out of Representative Stanford Parris' (R) 8th district; observers feel that it may make him more vulnerable to a challenge. The plan was approved in a special session and precleared by the Justice Department as required by the Voting Rights Act.

ACTION: Complete

WASHINGTON - In the 1981 legislative session Republican Governor John Spellman vetoed the legislature's congressional plan, which must reflect an increase from seven to eight seats. This year the Republican legislature had better

luck; Governor Spellman signed the congressional remap on February 17. (Legislators also approved a redistricting commission to take over reapportionment after 1990.)

ACTION: Complete

WEST VIRGINIA - has four congressional districts (two Republican and two Democratic). A congressional map was signed by Democratic Governor John D. Rockefeller IV on February 11, 1982. The Washington Post (February 14, 1982) noted that "after considering more drastic changes, the Democratic legislature passed a plan making only minor adjustments in four districts, now equally divided between the parties." The legislature was pressured to act because of a lawsuit (Brookover v. Manchin). A U.S. District Court issued an order on February 23, 1982 affirming the validity of the enacted plan.

ACTION: Complete

WISCONSIN - retains nine congressional seats. A new map was enacted on March 24, 1982. Legislators were pressured by a lawsuit asking a federal court to takeover redrawing both congressional and state legislative plans (AFL-CIO v. State Elections Board). Enactment of a congressional plan effectively excluded congressional redistricting from the court challenge.

ACTION: Complete

WYOMING - One congressional district

Overview of State Legislative Redistricting

With the exception of just seven states (Maine, Massachusetts, Montana, New Hampshire, New Mexico, South Carolina and Wisconsin), legislative redistricting based on the 1980 census is completed.

Litigation brought by groups or individual citizens concerning legislative plans has been resolved in at least a dozen states, but court challenges continue to protract the process in other states. Moreover, the Justice Department, under Section 5 of the Voting Rights Act, has current objections to Alabama's state Senate plan and Texas' state Senate and House plans.

Democrats have control of state legislatures in 28 states and have total control -- the legislature and the governorship -- in 17 states. Despite this advantage, political forecasters pointed to potential Republican gains in Illinois, Pennsylvania and other states that were subject to population movement from major urban and industrial areas to outlying suburban regions.

This theory, for example, held true in Pennsylvania, where Republicans have majorities in both houses. However, in Illinois, Democrats were able to control the process and ensure enactment of a Democratic-leaning plan. The following survey looks at 20 states in which the redistricting process has been particularly noteworthy.

Highlights of Legislative Redistricting

ALABAMA - On May 6, 1982 the state House and Senate plans were rejected by the Justice Department under Section 5 of the Voting Rights Act. The Justice Department objected to a number of districts where black voting strength was decreased through redistricting decisions.

ARKANSAS - A commission composed of the Governor, a Republican, and the Attorney General and Secretary of State, both Democrats, adopted a plan for both legislative houses in June, 1981. Two lawsuits were subsequently filed. Siloam Springs residents charged that the Senate plan discriminated against voters in their area. The Senate plan was upheld by the Arkansas Supreme Court. A second challenge to the plan was dismissed.

COLORADO - A 1974 constitutional amendment proposed by the League of Women Voters established a reapportionment commission to conduct state legislative redistricting. The 11-member commission included four members appointed by House and Senate party leaders, three appointed by the Governor, and four appointed by the Chief Justice of the Colorado Supreme Court.

A plan was unanimously approved by the Commission in December 1981 and submitted to the state Supreme court for review. The court approved the commission-drawn plan but ordered revision of the sequencing of two Senate districts so that no district would be without representation from 1982 to 1984. The commission filed an amended plan that completely redrew the two Senate districts. The court rejected the changes and ordered the Commission to simply make the election date adjustments. The final plan was complete by the March 15 deadline.

FLORIDA - On April 7, 1982 the Florida legislature adopted a legislative plan, which was sent to the state Supreme Court for review. The Justice Department must also approve the plan under provisions of the Voting Rights Act. The new plan creates only single-member legislative districts.

HAWAII - The League of Women Voters, Republicans, and Democrats challenged the legislative plan prepared by Hawaii's nine-member bipartisan reapportionment commission on an issue that is unique to Hawaii -- the reapportionment base. The commission based its 1981 map on the number of registered voters rather than on census data. A [illegible] District Court panel invalidated the state Senate and House plans and ordered the appointment of a special master to make a comparison of voter registration and census figures to determine if the deviation is great enough to violate the one person, one vote doctrine. The new plan created the first multicounty, single-member districts in Hawaii's history.

IDAHO - Governor John Evans (D) vetoed the Republican legislature's first and second attempts at redrawing state legislative districts, prompting Republican legislators to file a suit in district court (Budge v. Cenarrusa). By March 24, however, the legislature and the Governor approved a plan so the case -- along with a second suit charging improper splitting of political subdivisions -- was dismissed. A separate state District Court suit challenging the splitting of Sandpoint (Bonner County) Indian Reservation is pending.

ILLINOIS - The Legislative Redistricting Commission on Oct. 2, 1981 adopted a final legislative reapportionment plan that is expected to give "Democrats control of both houses of the legislature, and greatly enhance Chicago's ebbing influence there ... the new map was drawn in such a way as to carve up Republican districts ... to leave some Republican incumbents outside their districts, or to put them in districts where they would face strong challenges by other incumbents." (New York Times, October 8, 1981)

The validity of the plan was challenged in U.S. District Court (Rybicki v. State Board of Elections). In a decision issued January 12, 1982 the Court generally upheld the plan, with the exception of modifications to a few Chicago districts, to eliminate the concentration of minority voters into an unreasonably small number of districts.

INDIANA - Court action is pending concerning legislative plans which were signed by Governor Orr on February 25. Two lawsuits (Bandemer v. Davis and NAACP State Conference v. Orr) are in the U.S. District Court in Indianapolis. The Court rejected a motion to dismiss the cases, which charge minority dilution and other issues.

LOUISIANA - faces a lawsuit challenging the State House and congressional plan (Barbara Major v. David Treen and James Brown). Plaintiffs contend that the plan violates one person, one vote principles and dilutes the minority vote.

MICHIGAN'S Supreme Court issued a decision on redistricting on March 26, 1982, after reviewing a plan adopted and submitted by the Legislative Reapportionment Commission. The court held the plan unconstitutional, determining that it is unconstitutional for redistricting responsibility to be vested in the Legislative Reapportionment Commission instead of the legislature. Subsequently, in the absence of legislative action by the Court's May 4 deadline the Court appointed a special master to draw a plan in compliance with its guidelines. The master filed a revised plan on May 13, and the Court on May 21 adopted that plan with some revisions. The Democrats are appealing to the U.S. Supreme Court, and in the meantime have asked the Supreme Court to stay the effective date of the plan.

MINNESOTA - The St. Paul Pioneer Press noted that "the suburbs are the big winners and central cities the losers in a new federal court-drawn legislative redistricting plan ..." The court took responsibility for adopting a plan after the legislature failed to meet its March 12 deadline (LaComb, et al. v. Growel, et al.). The U.S. District Court's March 11 decision was appealed to the Supreme Court, which turned down the appeal.

NEW HAMPSHIPE - Governor Hugh Gallen (D) vetoed a Senate reapportionment plan passed by a Republican legislature. The Hartford Valley News (May 15, 1982) reported that Senate President Robert Monier (R) filed a suit in state Supreme Court on May 14, 1982 asking "the justices to take jurisdiction over reapportionment, declare the present district boundaries unconstitutional and accept and adopt a vetoed Senate redistricting plan."

NEW MEXICO - New Mexico has a Democratic legislature and a Democratic governor. A state legislative plan was adopted but was subsequently determined to be unconstitutional by a federal district court. The court objected to the votes-cast formula that was used to estimate precinct populations, and thereby upheld the claims of a number of plaintiffs who charged that the use of the formula resulted in minority underrepresentation.

The legislature is considering preparation of a new plan. In the meantime the June 1 primary date for members of the legislature has been delayed by court action.

NEW YORK - The state legislature, pressed by a federal court threat to appoint a special master, approved state legislative maps on May 11, 1982, with amendments May 17. Assembly Democrats who have a majority decided on the Assembly map. In the Senate, Republicans who are in control drew up the Senate map. The New York Times (May 9, 1982) commented: "Not surprisingly, the plan strengthens each party's hand in its own house." The bills were signed by Governor Hugh Carey (D) on May 20.

NORTH CAROLINA - Legislators struggled to win Justice Department approval for their state legislative districts, adopted in bills enacted in February 1982. The Raleigh News and Observer (April 28, 1982) noted that when legislators met to approve a plan, "the special session was the third to deal solely with the prickly redistricting issue since October."

Meanwhile two lawsuits were consolidated and will be taken up by a federal District Court (Gingles v. Edminsten and Pugh v. Hunt). Plaintiffs are charging Voting Rights Act violations, racial dilution, and other issues.

PENNSYLVANIA - The Reapportionment Commission adopted its final General Assembly reapportionment plan on October 13, 1981. It is expected that the plan will accelerate the shift of power in the legislature from Democratic urban areas to usually Republican suburban and rural area.

Common Cause filed suit in the Pennsylvania Supreme Court challenging the constitutionality of the plan, on the ground that it unnecessarily divided a very large number of counties, municipalities and wards into more than one district and created districts which were not compact, diluting the voting strength of racial and ethnic minorities. The Court on December 29, 1981 upheld the constitutionality of the plan, characterizing equality of population as the overriding constitutional goal.

A second challenge to the validity of the plan was raised in a suit filed in the U.S. District Court -- Hispanic Coalition on Reapportionment v. Legislative Reapportionment Commission. This suit focused on one district in Philadelphia and attacked validity of the plan on grounds it diluted Hispanic minority voting strength. In a decision issued April 6, 1982 the court rejected the challenge and dismissed the case, on the ground that the final plan increased the concentration of Hispanic votes over what it had been prior to reapportionment.

SOUTH DAKOTA - The state legislative reapportionment plan, adopted March 13, 1981 was challenged in U.S. District Court (Sioux Falls) in O'Connor v. Kundert. It was argued that the use of multi-member districts was unconstitutional. On February 12, 1982 the Court issued a decision rejecting these arguments and holding that the plan was constitutional. The case was dismissed.

However, the petition drive by Common Cause, League of Women Voters and certain other groups for an initiative constitutional amendment that would abolish multi-member state Senate districts in three urban areas was successful, and as a result the proposed constitutional amendment will be on the November, 1982 ballot.

TENNESSEE - A Nashville Chancery Court on February 18, 1982 issued a summary judgment holding the state Senate plan invalid because it divided counties in forming districts. On March 31, the state Supreme Court issued a decision holding the summary judgment improper. The legislature subsequently adopted a modified Senate plan. However, a court date was set for September 13 (the primary is scheduled for August 5) to determine the validity of both the House and Senate plans for future elections (Lockert v. Crowell).

TEXAS - Ignoring Justice Department objections to certain districts, a three-judge federal panel adopted the Legislative Redistricting Board's plans with only a few modifications, in order to hold the May 1 primary on

schedule. The court made its ruling in a lawsuit brought principally by Republicans (Terrazas v. Clements). The legislative districts were adopted only for the 1982 election. The legislature will have to redraw the districts in 1983.

VIRGINIA - After 14 special sessions, the General Assembly was finally successful in completing a House of Delegates plan and a Senate plan. An earlier plan approved by the legislature was overturned in federal court on the basis of excessively high population variance (Cosner, et al. v. Dalton, et al.). Earlier plans were also objected to by the Justice Department, but their validity is subject to review in Cosner v. Dalton. The Washington Post (April 2, 1982) stated: "The central issue throughout the debate was the demand ... for the abolition of citywide at-large districts that have protected senior white Democratic incumbents and, according to the critics, diluted black voting strength." Civil rights groups and Republicans have praised the new maps. However a number of localities have intervened in the litigation, with complaints on the issues of compactness plus the manner in which counties have been split up. Hearings are scheduled for mid-June.

# APPENDIX I. CONGRESSIONAL REDISTRICTING FACTS

May 1982

| | Current House Seats | 1982 House Seats | 1980 Seat Changes | Redistricting done by: | Completed: | Action |
|---|---|---|---|---|---|---|
| Alabama | 7 ( 4D, 3R) | 7 | 0 | Leg. | Yes | completed † |
| Alaska | 1 ( 1R) | 1 | 0 | ••• | ••• | — |
| Arizona | 4 ( 2D, 2R) | 5 | +1 | Leg. | Yes | completed † |
| Arkansas | 4 ( 2D, 2R) | 4 | 0 | Leg. | Yes | completed |
| California | 43 (22D,21R) | 45 | +2 | Leg. | Yes | repeal referendum † |
| Colorado | 5 ( 3D, 2R) | 6 | +1 | Leg. | Yes | completed |
| Connecticut | 6 ( 4D, 2R) | 6 | 0 | Leg. | Yes | completed † |
| Delaware | 1 ( 1R) | 1 | 0 | ••• | ••• | — |
| Florida | 15 (11D, 4R) | 19 | +4 | Leg. | Yes | litigation pending |
| Georgia | 10 ( 9D, 1R) | 10 | 0 | Leg. | Yes | litigation pending |
| Hawaii | 2 ( 2D ) | 2 | 0 | Comm. | Yes | completed |
| Idaho | 2 ( 2R) | 2 | 0 | Leg. | Yes | completed |
| Illinois | 24 (10D,14R) | 22 | −2 | Leg. | Yes | completed |
| Indiana | 11 ( 6D, 5R) | 10 | −1 | Leg. | Yes | completed |
| Iowa | 6 ( 3D, 3R) | 6 | 0 | Leg.Serv.Bur./Leg. | Yes | completed |
| Kansas | 5 ( 1D, 4R) | 5 | 0 | Leg. | No | Gov. vetoed plan |
| Kentucky | 7 ( 4D, 3R) | 7 | 0 | Leg. | Yes | completed |
| Louisiana | 8 ( 6D, 2R) | 8 | 0 | Leg. | Yes | litigation pending |
| Maine | 2 ( 2R) | 2 | 0 | Leg. | No | 1983 |
| Maryland | 8 ( 7D, 1R) | 8 | 0 | Gov/Leg. | Yes | completed |
| Massachusetts | 12 (10D, 2R) | 11 | −1 | Leg. | Yes | completed |
| Michigan | 19 (12D, 7R) | 18 | −1 | Leg. | Yes | litigation pending |
| Minnesota | 8 ( 3D, 5R) | 8 | 0 | Leg. | Yes | completed |
| Mississippi | 5 ( 4D, 1R) | 5 | 0 | Leg. | Yes | litigation pending |
| Missouri | 10 ( 6D, 4R) | 9 | −1 | Leg. | Yes | completed |
| Montana | 2 ( 1D, 1R) | 2 | 0 | Comm. | No | 1983 |
| Nebraska | 3 ( 3R) | 3 | 0 | Leg. | Yes | completed |
| Nevada | 1 ( 1D, ) | 2 | +1 | Leg. | Yes | completed |
| New Hampshire | 2 ( 1D, 1R) | 2 | 0 | Leg. | Yes | completed |
| New Jersey | 15 ( 8D, 7R) | 14 | −1 | Leg. | Yes | litigation pending |
| New Mexico | 2 ( 2R) | 3 | +1 | Leg. | Yes | completed |
| New York | 39 (22D,17R) | 34 | −5 | Leg. | Yes | litigation pending |
| North Carolina | 11 ( 7D, 4R) | 11 | 0 | Leg. | Yes | litigation pending |
| North Dakota | 1 ( 1D ) | 1 | 0 | ••• | ••• | — |
| Ohio | 23 (10D,13R) | 21 | −2 | Leg. | Yes | litigation pending |
| Oklahoma | 6 ( 5D, 1R) | 6 | 0 | Leg. | Yes | repeal referendum |
| Oregon | 4 ( 3D, 1R) | 5 | +1 | Leg. | Yes | completed |
| Pennsylvania | 25 (13D,12R) | 23 | −2 | Leg. | Yes | litigation pending |
| Rhode Island | 2 ( 1D, 1R) | 2 | 0 | Leg. | Yes | completed |
| South Carolina | 6 ( 2D, 4R) | 6 | 0 | Leg. | Yes | completed |
| South Dakota | 2 ( 1D, 1R) | 1 | −1 | ••• | ••• | — |
| Tennessee | 8 ( 5D, 3R) | 9 | +1 | Leg. | Yes | completed |
| Texas | 24 (19D, 5R) | 27 | +3 | Leg. | Yes | completed for May primary |
| Utah | 2 ( 2R) | 3 | +1 | Leg. | Yes | completed |
| Vermont | 1 ( 1R) | 1 | 0 | ••• | ••• | — |
| Virginia | 10 ( 1D, 9R) | 10 | 0 | Leg. | Yes | completed † |
| Washington | 7 ( 5D, 2R) | 8 | +1 | Leg. | Yes | completed |
| West Virginia | 4 ( 2D, 2R) | 4 | 0 | Leg. | Yes | completed |
| Wisconsin | 9 ( 5D, 4R) | 9 | 0 | Leg. | Yes | completed |
| Wyoming | 1 ( 1R) | 1 | 0 | ••• | ••• | — |

••• Indicates a single Congressional district

† Plan precleared by Justice Dept. under Voting Rights Act

# APPENDIX II. STATE LEGISLATIVE REDISTRICTING FACTS

May 1982

| State | Political party in control Gov. | Leg. | Redistricting done by | Covered by Voting Rights Act | Redistricting completed | Action |
|---|---|---|---|---|---|---|
| Alabama | D | D | Leg. | statewide | Yes | rejected by Justice Dept. |
| Alaska | R | Sen. 10 D, 10 R; House 22 D, 16 R; 2 L | Board is advisory to governor | statewide | Yes | completed |
| Arizona | D | R | Leg. | statewide | Yes | completed |
| Arkansas | R | D | Board | no | Yes | completed |
| California | D | D | Leg. | 4 counties | Yes | repeal referendum |
| Colorado | D | R | Board | 1 county | Yes | completed |
| Connecticut | D | D | Leg.-(Board if Leg. fails to act) | 3 towns | Yes | litigation pending |
| Delaware | R | Sen. 12 D, 9 R; House 25 R, 16 D | Leg. | no | Yes | completed |
| Florida | D | D | Leg.—(Court if Leg. fails to act) | 5 counties | Yes | Justice Dept. approval pending |
| Georgia | D | D | Leg. | statewide | Yes | Justice Dept. approval pending |
| Hawaii | D | D | Board | 1 county | Yes | Justice Dept. approval pending |
| Idaho | D | R | Leg. | 1 county | Yes | litigation pending |
| Illinois | R | Sen. 29 R, 30 D; House 91 R, 86 D | Leg.—(Board if Leg. fails to act) | no | Yes | completed |
| Indiana | R | R | Leg. | no | Yes | litigation pending |
| Iowa | R | R | Leg. Serv. Bureau is advisory to Leg. | no | Yes | completed |
| Kansas | D | R | Leg. | no | Yes | completed |
| Kentucky | D | D | Leg. | no | Yes | completed |
| Louisiana | R | D | Leg.—(Court if Leg. fails to act) | statewide | Yes | litigation pending |
| Maine | D | Sen. 17 R, 16 D; House 83 D, 68 R | (Board is advisory to Leg. If Board fails to act, Court takes over) | no | No | 1983 |
| Maryland | D | D | Governor submits plan to Leg. | no | Yes | litigation pending |
| Massachusetts | D | D | Leg. | 9 towns | No | 1985 |
| Michigan | R | D | Boards (Court if Board fails to act) | 2 townships | Yes | litigation pending |
| Minnesota | R | D | Leg. | no | Yes | completed |
| Mississippi | D | D | Leg. | statewide | Yes | completed |
| Missouri | R | D | Board—(Court if Board fails to act) | no | Yes | completed |

| State | Political party in control: Gov. | Political party in control: Leg. | Redistricting done by | Covered by Voting Rights Act | Redistricting completed | Action |
|---|---|---|---|---|---|---|
| Montana | D | R | Board | no | No | 1985 |
| Nebraska | R | unicameral | Leg. | no | Yes | completed |
| Nevada | R | D | Leg. | no | Yes | completed |
| New Hampshire | D | R | Leg. | 9 political subdivisions | No | plan vetoed by Gov. |
| New Jersey | D | D | Board | no | Yes | completed |
| New Mexico | D | D | Leg. | no | No | special session in June or July 1982 |
| New York | D | Sen. 35 R, 25 D; House 86 D, 64 R | Leg. | 3 New York City boroughs | Yes | litigation pending |
| North Carolina | D | D | Leg. | 40 counties | Yes | litigation pending |
| North Dakota | R | R | Leg. | no | Yes | completed |
| Ohio | R | Sen. 18 R, 15 D; House 56 D, 43 R | Board | no | Yes | completed |
| Oklahoma | D | D | Leg.—(Board if Leg. fails to act) | no | Yes | completed |
| Oregon | R | D | Leg.—(Sec. of State if Leg. fails to act) | no | Yes | completed |
| Pennsylvania | R | R | Board | no | Yes | completed |
| Rhode Island | D | D | Leg. | no | Yes | litigation pending |
| South Carolina | D | D | Leg. | statewide | House-Yes Senate-No | completed |
| South Dakota | R | R | Leg.—(Board if Leg. fails to act) | 2 counties | Yes | const. amendment on 11/82 ballot |
| Tennessee | R | D | Leg. | no | Yes (for 8/5 primary) | litigation pending |
| Texas | R | D | Leg.—(Board if Leg. fails to act) | statewide | Yes (for May 1 primary) | Districts must be redrawn |
| Utah | D | R | Leg. | no | Yes | completed |
| Vermont | R | R | Board is advisory to Leg.—(Court if Leg. fails to act) | no | Yes | completed |
| Virginia | R | D | Leg. | statewide | Yes | completed |
| Washington | R | R | Leg. | no | Yes | completed |
| West Virginia | D | D | Leg. | no | Yes | completed |
| Wisconsin | R | D | Leg. | no | No | Gov. vetoed bill on 5/23/82 |
| Wyoming | D | R | Leg. | 1 county | Yes | completed |

APPENDIX III: REAPPORTIONMENT: A BETTER WAY

Common Cause first proposed a model reapportionment process in 1977 for adoption at the state level. The model proposal relies heavily on the Colorado, Hawaii, and Montana reapportionment procedures.* The Hawaii and Montana processes were recommendations of constitutional conventions that received voter approval in 1968 and 1972, respectively, (Hawaii and Montana commissions draw congressional as well as state legislative boundaries.) The Colorado process was the result of a citizen initiative approved by the voters in November of 1974 by a vote ratio of three to two.

The Common Cause model proposes a reapportionment process designed to produce districts that are fairly drawn as well as districts of substantial population equality. Unlike district lines produced by political gerrymandering, fair district lines are not drawn to pre-determine election results. The model proposes a system of reapportionment that is equitable in its treatment of incumbent legislators, political parties, and others. This replaces the present system where people with political power are able to manipulate district lines for personal and partisan advantage.

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* A description of reapportionment commission activities in Colorado and Hawaii is found on page 26. Montana will not complete redistricting until 1983.

The Common Cause model has three main elements -- strict anti-gerrymandering standards; an independent, nonpartisan reapportionment commission; and prompt judicial review. All three elements of the model are crucial. They are designed to reinforce each other and to produce fairly drawn district lines. The reapportionment standards are designed to produce fair district lines by limiting the discretion of the commission to gerrymander for political or partisan purposes. The nonpartisan reapportionment commission replaces the legislature, providing much needed independence. Fair district lines are more likely if district lines are drawn by persons not directly affected by them. Judicial review provides finality and acts as the final safeguard of the public's interest in fair and effective representation.

Four states have enacted legislation in the last three years that strengthens the standards that legislators must use in drawing congressional and state legislative districts -- California (1980), Iowa (1980), Oregon (1979), and Washington (1982). In addition, proposals to establish a redistricting commission will appear on November 1982 ballots in California and Missouri.

Common Cause will continue to lobby for reapportionment reform in the states. To obtain a copy of Common Cause's report on state and congressional reapportionment, Toward a System of Fair and Effective Representation, and the Common

Cause model reapportionment amendment to a state constitution, please call or write to the Common Cause Redistricting Clearinghouse, 2030 M Street, N.W. Washington, D.C. 20036 (202) 833-1200.

## Other Investigative Studies From Common Cause

WHO'S MINDING THE STORE? A Common Cause Guide to Top Officials at the Department of the Interior (December 1981) ($4.00)

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These investigative studies are available by writing: Issue Mail, Common Cause, 2030 M Street, N.W., Washington, D.C. 20036.

# REAPPORTIONMENT: A BETTER WAY

## a common cause proposal

> "I don't think they play at all fairly, and they all quarrel so dreadfully one can't hear one self speak—and they don't seem to have any rules in particular: at least, if there are, nobody attends to them—and you've no idea how confusing it is . . ."
>
> —Alice
> *Alice's Adventures in Wonderland*

Alice would have felt quite at home watching a typical state legislature attempt to reapportion itself during the 1960's and early 1970's. In many states, reapportionment*—the decennial division of states into legislative districts for voting purposes—has been a series of secret deals based largely on personal and partisan motivations. Few rules have existed to safeguard the public's interest in an open and competitive political system. The guiding principle for most incumbent legislators has been self-protection.

The method by which state legislative and congressional district lines are drawn is fundamental to our system of representative democracy. The Supreme Court decisions of the mid-1960's requiring periodic reapportionment on the basis of "one person, one vote" eliminated the gross population inequalities among legislative districts that existed in the 1950's and 1960's. These decisions took us a large step toward the goal of achieving "fair and effective representation for all citizens" articulated by the Court in the 1964 *Reynolds* case. Unfortunately, we have not com-

*As a technical matter, "reapportionment" is "a distribution of legislative seats" to already established units of government (for example, states, counties). "Redistricting" is "the drawing of lines" to establish legislative districts within already established units of government. Thus, congressional seats are apportioned to the states and then districts drawn within each state. As a matter of practice, however, the terms "reapportionment" and "redistricting" have been used interchangeably. In this report, "reapportionment" is used to refer to the act of drawing legislative district lines as well as apportioning legislative seats among units of government.

pleted the journey toward that worthy goal because the Court has not dealt with the equally debilitating problems of racial and political gerrymandering. The reapportionment revolution remains unfinished.

The Court's decisions leave reapportionment in the hands of the state legislatures, presenting an inherent conflict of interest. With few standards other than substantial population equality to guide them, the state legislatures have been free to draw districts of bizarre configurations designed to serve personal and partisan ends. Professors Keefe and Ogul, authors of *The American Legislative Process*, have examined our nation's experience with reapportionment and concluded that "everything about reapportionment, whether legislative or congressional, suggests the triumph of self-interest."

Political and racial gerrymandering have resulted. They have reduced electoral competition and undermined our system of representative democracy in significant ways. Political gerrymandering dilutes the value of political participation, undermines legislative responsiveness to constituent views, and weakens political parties. Gerrymandering has been used to deny representation to minority groups.

The present process works extremely well for incumbent legislators and other political insiders. It does not serve the public well. An Illinois legislator once explained this insider's game in blunt terms:

> Outsiders shouldn't stick their noses in and tell this committee how to reapportion the state . . . . Any man in this legislature who doesn't fight for his own district is a particular damn fool. I'm not for too many sitting members running against each other if we can work it out.

In the early 1980's virtually all state legislative and congressional district lines will be redrawn based on the 1980 federal census. Common Cause believes that it is well past time for citizens to "stick their noses" in this important political process and insist that it be cleaned up and opened to public participation before the reapportionment of the early 1980's takes place. Common Cause has proposed a model reapportionment process designed to establish the legal framework necessary to achieve the Supreme Court's goal of "fair and effective representation." The Common Cause model is summarized on pages 24-25. It proposes the establishment of rigorous anti-gerrymandering reapportionment standards and the creation of an independent, nonpartisan commission to draw the state legislative and congressional district lines. Unless citizens demand a better way than what we have had, the unseemly spectacles of the 1960's and 1970's will be repeated in state after state.



**"If no one else has a question, we'll proceed with the democratic process."**

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# Background

The quest for fair and effective representation runs deep in Anglo-American political thought. In 1690, John Locke despaired of England's rotten boroughs and argued that it was in the interest of the public "to have a fair and equal representative." Apportionment was a fundamental issue for the Constitutional Convention meeting in Philadelphia in 1787. The Connecticut compromise provided for equal representation of the states in the U.S. Senate and for representation based on population in the House. Article I, Section 2 of the Constitution specifically provides that Representatives be apportioned among the states according to population every ten years.

Despite federal and state constitutional requirements to reapportion periodically, many states failed to do so. As the nation's population shifted from rural areas to the cities and suburbs, the population inequality among state legislative districts as well as congressional districts increased substantially. In 1946, the U.S. Supreme Court failed to halt this trend when it denied relief in the *Colegrove* case challenging an Illinois congressional district plan that had one district with nine times as many people as another. Justice Frankfurter argued: "Courts ought not to enter this political thicket." State courts also declined to become involved. Rural dominance was maintained in some states by simply doing nothing.

Absent a court mandate, nearly one-half of the states did not reapportion their legislatures after the 1950 census according to Professors Keefe and Ogul. By 1962, ten states had at least one house which had not been reapportioned since 1930. Vermont had not reapportioned since 1793; nor had Delaware since 1897. The resulting malapportionment was extraordinary. The Brookings Institution has pointed out that twenty-one of the forty-two states with more than one congressional district in 1962 had constituencies in which the smallest district had less than one-half of the population of the largest district. In 1961, according to Professors Jewell and Patterson, authors of *The Legislative Process in the U.S.*, there were fourteen states in which a majority of members of at least one house could be elected by as few as twenty percent of the electorate from rural areas. In the Vermont House, the 38 citizens of Stratton had the same representation as the 35,531 citizens of Burlington. The five largest cities in Connecticut had one-fourth of the state's population but elected only ten of the 294 house members. The six million citizens of Los Angeles County comprised forty percent of the population of California but had only one of the forty seats in the state Senate.

> But things not always changing equally, and private interest often keeping up customs and privileges when the reasons of them are ceased, it often comes to pass that in governments where part of the legislative consists of representatives chosen by the people, that in tract of time this representation becomes very unequal and disproportionate to the reasons it was first established upon . . . . This strangers stand amazed at, and every one must confess needs a remedy; . . . . And therefore the people, when the legislative is once constituted, having in such a government as we have been speaking of no power to act as long as the government stands, this inconvenience is thought incapable of a remedy . . . . For it being the interest as well as intention of the people, to have a *fair and equal representative*, whoever brings it nearest to that is an undoubted friend to and establisher of the government, and cannot miss the consent and approbation of the community. [emphasis added]
>
> —John Locke
> *Second Treatise of Civil Government* (1690)

# The Supreme Court in the "Political Thicket"

In 1962, in the famous *Baker v. Carr* case, the U.S. Supreme Court decided to enter the "political thicket" of reapportionment. The Court held that federal courts have jurisdiction over complaints against malapportioned legislatures. The *Baker* case involved the Tennessee General Assembly which had not reapportioned itself since 1901 despite a state constitutional mandate to do so every ten years and a dramatic growth and shift of population. The Court declined to specify a remedy in Baker but did establish guidelines in a series of decisions over the next several years.

Early in 1964, in *Wesberry v. Sanders*, the Court voided Georgia's congressional district plan and held that:

> . . . the command of Art. I, Sec. 2, that Representatives be chosen "by the People of the several States" means that as nearly as is practicable one man's vote in a congressional election is to be worth as much as another's.

Perhaps the most important decision came in *Reynolds v. Sims* in June of 1964. In *Reynolds*, the Court voided Alabama's state legislative district plan and held that:

> The Equal Protection Clause requires that a State make an honest and good faith effort to construct districts, in both houses of its legislature, *as nearly of equal population as is practicable.* [emphasis added]

The response to *Baker, Wesberry,* and *Reynolds* was predictable. Suits were filed in federal or state courts of 48 of the fifty states between 1962 and 1972 alleging violations of the equal protection clause with respect to the apportionment of one or both legislative houses.

Over the years, the Court has refined the "one person, one vote" standard. The Court has made a distinction between state legislative and congressional districts, allowing larger population deviations among districts in state legislative plans. The Court has defined the "as nearly of equal population as is practicable" standard of *Reynolds* under the equal protection clause to allow maximum population deviations among state legislative districts of up to ten percent. The Court has allowed somewhat greater deviations if justified by rational state policy, such as the desire to respect the boundaries of political subdivisions. The Court has defined the "as nearly as is practicable" standard of *Wesberry* under Article I, Section 2 of the Constitution to require as close to mathematical equality as is reasonably possible for congressional districts.

While the Supreme Court has secured substantial population equality among legislative districts, it has been unreceptive to reapportionment challenges based on charges of political or racial gerrymandering. Districts of bizarre configurations admittedly designed to serve personal or partisan ends have been upheld if they meet the population test. The Court has indicated that it will scrutinize carefully charges of racial gerrymandering. But in *Whitcomb v. Chavis* in 1971, the most important racial gerrymandering case to date, the Court held that the use of multi-member rather than single-member state legislative districts in Indiana did not result in invidious discrimination against the black voters of Indianapolis.

# SUMMARY OF MAJOR U.S. SUPREME COURT DECISIONS

*Colegrove v. Green,* 328 U.S. 549 (1946): The Court, by a four to three vote, denied relief in a case challenging an Illinois congressional district plan that had one district with nine times as many people as another. Justice Frankfurter argued that: "Courts ought not to enter this political thicket. The remedy for unfairness in districting is to secure state legislatures that will apportion properly, or to invoke the ample powers of Congress."

*Baker v. Carr,* 369 U.S. 186 (1962): In a case involving the Tennessee General Assembly, the Court held that federal courts have jurisdiction over complaints against malapportioned legislatures. The legislature had not reapportioned since 1901 despite a state constitutional mandate to do so every ten years and a dramatic growth and shift of population. The Court declined to consider what remedy would be appropriate and remanded the case to the lower court.

*Wesberry v. Sanders,* 376 U.S. 1 (1964): The Court voided Georgia's congressional district plan. The Court held that Article I, Section 2 of the Constitution required that "as nearly as is practicable one man's vote in a congressional election is to be worth as much as another's."

*Reynolds v. Sims,* 377 U.S. 533 (1964): In a case involving the Alabama Legislature, the Court rejected the analogy to the U.S. Congress and held that both houses of a state legislature must be apportioned on a population basis. The Court held that: "The Equal Protection Clause requires that a State make an honest and good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable." The Court said that some deviations from the equal population principle are constitutionally permissible if "based on legitimate considerations incident to the effectuation of a rational state policy," such as a desire to respect the boundaries of political subdivisions.

*Swann v. Adams,* 385 U.S. 440 (1967): The Court rejected Florida's 1966 state legislative reapportionment plan because it contained senate districts ranging from 15.09 percent above the average district and 10.56 percent below and house districts ranging from 18.28 percent above to 15.27 percent below.

*Kirkpatrick v. Preisler,* 394 U.S. 526 (1969): The Court rejected Missouri's 1967 congressional Redistricting Act because the most populous district was 3.13 percent greater than the average district and the least populous was 2.84 percent below and the state failed to satisfactorily justify the deviations. The Court held that "the 'as nearly equal as practicable' standard requires that the State make a good-faith effort to achieve precise mathematical equality. Unless population variances among congressional districts are shown to have resulted despite such effort, the State must justify each variance, no matter how small."

**Continued on page 6**

U.S. SUPREME COURT DECISIONS continued from page 5

*Whitcomb v. Chavis*, 403 U.S. 124 (1971): The Court held that the use of multi-member districts in state legislative reapportionment in Indiana did not result in invidious discrimination against the black voters of Indianapolis. The Court "insisted that the challengers carry the burden of proving that multi-member districts unconstitutionally operate to dilute or cancel the voting strength of racial or political elements." The Court found that the challengers had not demonstrated discrimination.

*Mahan v. Howell*, 410 U.S. 315 (1973): The Court upheld a 1971 Virginia state legislative reapportionment plan despite the fact that it had a maximum population deviation from the largest to the smallest district of 16.4 percent. The Court held that the legislative plan "may reasonably be said to advance the rational state policy of respecting the boundaries of political subdivisions," but noted that "this percentage may well approach tolerable limits."

*Gaffney v. Cummings*, 412 U.S. 735 (1973): The Court upheld a 1971 state legislative reapportionment plan for Connecticut with maximum population deviations between house districts of 7.83 percent. The Court held that "minor deviations from mathematical equality among state legislative districts are insufficient to make out a prima facie case of invidious discrimination under the Fourteenth Amendment so as to require justification by the State." In addition, the Court held that the plan was not constitutionally vulnerable just because it attempted to reflect the relative strength of the major political parties.

*White v. Weiser*, 412 U.S. 783 (1973): The Court rejected a congressional district plan for Texas because its maximum deviations of 2.43 percent above and 1.7 percent below the average "were not 'unavoidable', and the districts were not as mathematically equal as reasonably possible."

*Chapman v. Meier*, 420 U.S. 1 (1975): The Court overturned a federal court ordered reapportionment of the North Dakota Legislative Assembly. The Court held that "unless there are persuasive justifications, a court-ordered reapportionment plan of a state legislature must avoid use of multi-member districts." The Court noted that it was exercising its supervisory powers with regard to federal courts; it was not holding that multi-member districts are unconstitutional *per se*.

*United Jewish Organizations v. Carey*, 97 Sup. Ct. 996 (1977): The Court upheld a legislative modification of New York's state legislative reapportionment plan that was designed to bring the plan into compliance with the Voting Rights Act. In order to establish several substantially non-white districts in Kings County, the legislature divided a community of Hasidic Jews. The Court held that the use of racial criteria in an attempt to comply with the Voting Rights Act did not violate either the Fourteenth or Fifteenth amendments.

# Existing State Policies

Virtually all substantive law regarding apportionment procedure is found in the constitutions of the states. With the exception of some of the newest provisions, few describe in much detail either the procedure for preparation of reapportionment plans or the standards to be used. Only the constitutional provisions in Colorado, Hawaii, and Montana meet the anti-gerrymandering test advocated by Common Cause. Table I below provides an overview of existing state provisions for state legislative apportionment. A typical state constitutional provision requires the legislature to reapportion on the basis of population after each federal decennial census. One state statute and twenty-one state constitutions explicitly require that districts be compact; two state statutes and twenty-seven constitutions explicitly provide that districts be formed of contiguous territory. Many state constitutions require the apportioning authority to respect political subdivision boundaries. But even where standards exist, they are generally stated in terms too vague to be enforced in court.

In thirty-seven states, the legislature is given the initial responsibility for preparing the apportionment plan. Nine of these states provide for an apportionment authority to prepare a plan if the legislature does not do so—in five states a board is established as the backup, in three the supreme court is responsible, and in Oregon the secretary of state prepares a plan. Nine other states give responsibility to a board or commission; in two of these states the supreme court is to prepare a plan if the

TABLE I:

EXISTING STATE PROVISIONS FOR
STATE LEGISLATIVE APPORTIONMENT

| State | Apportioning Authority | Compactness | Contiguity | St. Sup. Court Original Jur. | State | Apportioning Authority | Compactness | Contiguity | St. Sup. Court Original Jur. |
|---|---|---|---|---|---|---|---|---|---|
| Alabama | L | | X | | Montana | B | X | X | |
| Alaska | B/G | X | X | | Nebraska | L | X | X | |
| Arizona | L | | | | Nevada | L | | | |
| Arkansas | B | | | X | New Hampshire | L | | | |
| California | L | | X | | New Jersey | B | X | X | |
| Colorado | B | X | X | X | New Mexico | L | X | X | |
| Connecticut | L(B) | | X | X | New York | L | X | X | |
| Delaware | L | | X | | North Carolina | L | | X | |
| Florida | L(C) | | | X | North Dakota | L | | | |
| Georgia | L | | | | Ohio | B | X | X | X |
| Hawaii | B | X | X | X | Oklahoma | L(B) | X | X | X |
| Idaho | L | | | | Oregon | L(St.) | | | X |
| Illinois | L(B) | X | X | X | Pennsylvania | B | X | X | X |
| Indiana | L | | | | Rhode Island | L | X | | |
| Iowa | L(C) | X | X | X | South Carolina | L | | | |
| Kansas | L | | | X | South Dakota | L(B) | | | |
| Kentucky | L | | | | Tennessee | L | | | |
| Louisiana | L(C) | | | | Texas | L(B) | | X | |
| Maine | B/L(C) | X | X | X | Utah | L | | | |
| Maryland | G/L | X | X | X | Vermont | B/L(C) | X | X | X |
| Massachusetts | L | | X | X | Virginia | L | X | X | |
| Michigan | B(C) | X | X | X | Washington | L | | | |
| Minnesota | L | | X | | West Virginia | L | X | X | |
| Mississippi | L | | | | Wisconsin | L | X | X | |
| Missouri | Bds.(C) | X | X | | Wyoming | L | | | |

KEY: B—Board or Commission, C—Court, G—Governor, L—Legislature, St.—Secretary of State, B/G—Board is advisory to Governor, L(C)—if Legislature fails to act, the Court is the backup authority.

board does not. In two additional states—Maine and Vermont—boards are established to advise the legislature; the supreme courts backup the legislature. In Alaska, the governor is responsible for preparing a plan with the assistance of an advisory board. In Maryland, the governor presents a plan to the legislature; if the legislature does not enact a substitute, the governor's plan goes into effect. Table II on page 9 provides an overview of the makeup and responsibilities of the eighteen boards and commissions that are assigned state legislative apportionment responsibilities. Many are dominated by legislators or other public officials and lack the necessary independence. Seventeen state constitutions establish prompt court review by providing for original jurisdiction in the state's highest court.

The apportionment authorities designated by the state constitutions—especially the state legislatures—have often failed to produce acceptable plans. According to a 1973 survey by the Massachusetts Legislative Research Council, courts promulgated districts for one or both houses in at least twenty-one states between 1962 and 1972. In other states, the courts rejected reapportionment plans and ordered reapportionment authorities to prepare acceptable plans. According to Tables III and IV on pages 10-11, prepared by the Council of State Governments, sixteen existing state house apportionment plans and seventeen senate plans were court ordered.

## STATE CONSTITUTIONAL AND STATUTORY REAPPORTIONMENT PROVISIONS

Alabama: Const. art. 9, secs. 197-201.
Alaska: Const. art. VI, secs. 1-11.
Arizona: Const. art. 4, pt. 2, sec. 1; and Ariz. Rev. Stat. secs. 16-1401 to 16-1403.
Arkansas: Const. amendment no. 45.
California: Const. art. 4, secs. 6 and 27.
Colorado: Const. art. V, secs. 46-48.
Connecticut: Const. art. 3, secs. 3-6.
Delaware: Code tit. 29, secs. 801-808.
Florida: Const. art. III, sec. 16.
Georgia: Const. art. 3, secs. 2-3.
Hawaii: Const. art. III, sec. 4; and Haw. Rev. Stat. secs. 25-1 to 25-8.
Idaho: Const. art. 3, secs. 4-5.
Illinois: Const. art. 4, sec. 3.
Indiana: Const. art. 4, secs. 5-6.
Iowa: Const. art. 3, secs. 34-39.
Kansas: Const. art. 10, sec. 1.
Kentucky: Const. sec. 33.
Louisiana: Const. art. III, sec. 6.
Maine: Const. art. IV, pt. 1, secs. 2-3; pt. 2, sec. 2; and pt. 3, sec. 1-A.
Maryland: Const. art. III, secs. 2-5.
Massachusetts: Const. art. CI, secs. 1-3.
Michigan: Const. art. IV, secs. 2-6; and Mich. Stat. Ann. secs. 2-28 (1)-(9).
Minnesota: Const. art. 4, secs. 2-3.
Mississippi: Const. art. 13, secs. 254-255.
Missouri: Const. art. III, secs. 2, 7, 10, and 45.
Montana: Const. art. V, sec. 14; and Mont. Rev. Codes Ann. secs. 43-108 to 43-118.
Nebraska: Const. art. III, sec. 5.
Nevada: Const. art. 4, sec. 5.
New Hampshire: Const. pt. 2, arts. 9, 9a, and 26.
New Jersey: Const. art. IV, secs. II-III.
New Mexico: Const. art. IV, sec. 3; and N.M. Stat. Ann. secs. 2-7-122, 2-9-124.
New York: Const. art. 3, secs. 4-5.
North Carolina: Const. art. II, secs. 3 and 5.
North Dakota: Const. art. II, sec. 35.
Ohio: Const. art. XI, secs. 1-15.
Oklahoma: Const. art. 5, secs. 9A, 10A, and 11A-E.
Oregon: Const. art. IV, sec. 6.
Pennsylvania: Const. art. 2, secs. 16-17.
Rhode Island: Const. amendments XIII and XIX.
South Carolina: Const. art. 3, secs. 3-6.
South Dakota: Const. art. III, sec. 5.
Tennessee: Const. art. II, secs. 4-6.
Texas: Const. art. III, secs. 25-28.
Utah: Const. art. IX, secs. 1-4.
Vermont: Const. ch. II, secs. 13, 18, and 74; and Vt. Stat. Ann. tit. 17, secs. 1901-1911.
Virginia: Const. art. II, sec. 6.
Washington: Const. art. 2, sec. 3.
West Virginia: Const. art. VI, secs. 4-10.
Wisconsin: Const. art. IV, secs. 3-5.
Wyoming: Const art. 3, sec. 3.

## TABLE II:

## STATE REAPPORTIONMENT COMMISSIONS

| State | No. Comm. | How Commissioners Chosen | Authority |
|---|---|---|---|
| Alaska | 5 | by the Governor | advisory to the Governor |
| Arkansas | 3 | board is composed of the Governor, Secretary of State, and Attorney General. | promulgate a plan |
| Colorado | 11 | four by the legislative department, three by executive, and four by judicial (no more than four may be legislators) | promulgate a plan |
| Connecticut | 9 | by the Governor from names designated by legislative leaders; the eight select a ninth | backup if legislature fails to adopt plan |
| Hawaii | 9 | legislative leaders select eight who select a ninth | promulgate a plan |
| Illinois | 8 | four legislative leaders each select one legislator and one non-legislator | backup if legislature fails to adopt a plan |
| Maine | 13 | ten legislators are chosen by legislative leaders and the legislators select three members of the public | advisory to the legislature |
| Michigan | 8 | two major political parties each select four | promulgate a plan |
| Missouri House | 20 | by Governor, one from each list of two submitted by congressional district committees of two major parties | promulgate a plan |
| Missouri Senate | 10 | by Governor, five from each list of ten submitted by two major political parties | promulgate a plan |
| Montana | 5 | four legislative leaders each select one and four commissioners select fifth | promulgate a plan |
| New Jersey | 10 (11) | five from each of two major parties; Chief Justice appoints eleventh if deadlock | promulgate a plan |
| Ohio | 5 | board is composed of Governor, Auditor, Secretary of State, and two selected by legislative leaders | promulgate a plan |
| Oklahoma | 3 | board is composed of Attorney General, Superintendent of Public Instruction, and Treasurer | backup if legislature fails to adopt a plan |
| Pennsylvania | 5 | board composed of four legislative leaders or deputies and fifth selected by the four | promulgate a plan |
| South Dakota | 5 | board composed of Governor, Superintendent of Public Instruction, presiding judge of Supreme Court, Attorney General, and Secretary of State | backup if legislature fails to adopt a plan |
| Texas | 5 | board composed of Lt. Governor, House Speaker, Attorney General, Comptroller, and Commissioner of General Land Office | backup if legislature fails to adopt a plan |
| Vermont | 5 | Governor appoints one from each major party; each major party appoints one; Chief Justice of Supreme Court appoints one | advisory to legislature |

## TABLE III:

### APPORTIONMENT OF LEGISLATURES: SENATE

| State or other jurisdiction | Initial reapportioning agency | Present apportionment by | Year of most recent apportionment | Number of seats | Number of districts | Number of multi-member districts | Largest number of seats in district | Percent deviation in actual v. average population per seat: Greatest + | Greatest − | Average population each seat (a) |
|---|---|---|---|---|---|---|---|---|---|---|
| Alabama | L | FC | 1972 | 35 | 35 | 0 | 1 | 0.67 | 0.72 | 98,406 |
| Alaska | G,B | SC | 1974 | 20 | 16 | 3 | 3 | 14.0 | 8.4 | 15,118 |
| Arizona | L | L | 1972(b) | 30 | 30 | 0 | 1 | 0.4 | 0.4 | 59,083 |
| Arkansas | B | B | 1971 | 35 | 35 | 0 | 1 | 2.0 | 1.49 | 54,923 |
| California | L | SC | 1973 | 40 | 40 | 0 | 1 | 1.92 | 1.02 | 499,322 |
| Colorado | L | L | 1972 | 35 | 35 | 0 | 1 | 2.48 | 0.67 | 63,129 |
| Connecticut | L(c) | B | 1971 | 36 | 36 | 0 | 1 | 3.9 | 3.9 | 84,228 |
| Delaware | L | L | 1971 | 21 | 21 | 0 | 1 | 1.4 | 0.9 | 26,100 |
| Florida | L(c) | L | 1972 | 40 | 19 | 14 | 3 | 0.62 | 0.53 | 169,773 |
| Georgia | L | L | 1972 | 56 | 56 | 0 | 1 | 2.3 | 2.0 | 81,955 |
| Hawaii | B | B | 1973 | 25 | 8 | 7 | 4 | 16.2 | 13.8 | 13,513(d) |
| Idaho | L | L | 1974 | 35 | 35 | 0 | 1 | 5.15 | 5.03 | 20,371 |
| Illinois | L(c) | L | 1973 | 59 | 59 | 0 | 1 | 0.8 | 0.6 | 188,372 |
| Indiana | L | L | 1972 | 50 | 50 | 0 | 1 | 1.7 | 1.6 | 101,872 |
| Iowa | L(c) | SC | 1972 | 50 | 50 | 0 | 1 | 0.0 | 0.0 | 56,507 |
| Kansas | L | FC | 1972 | 40 | 40 | 0 | 1 | 2.56 | 2.02 | 56,231 |
| Kentucky | L | L | 1972 | 38 | 38 | 0 | 1 | 3.07 | 3.02 | 81,791 |
| Louisiana | L | FC, L | 1972 | 39 | 39 | 0 | 1 | 5.6 | 8.8 | 91,415 |
| Maine | L(c) | SC | 1972 | 33 | 33 | 0 | 1 | 1.52 | 1.54 | 30,111 |
| Maryland | G | SC | 1974 | 47 | 47 | 0 | 1 | 5.3 | 4.7 | 84,455 |
| Massachusetts | L | L | 1973 | 40 | 40 | 0 | 1 | 3.53 | 3.67 | 138,473(e) |
| Michigan | B | SC | 1972 | 38 | 38 | 0 | 1 | 0.0 | 0.0 | 233,753 |
| Minnesota | L | FC | 1972 | 67 | 67 | 0 | 1 | 1.88 | 1.83 | 56,820 |
| Mississippi | L | FC | 1975 | 52 | 39 | 12 | 3 | 1.12 | 0.92 | 42,000 |
| Missouri | B | B | 1971 | 34 | 34 | 0 | 1 | 4.9 | 4.9 | 137,571 |
| Montana | B | B | 1974 | 50 | 50 | 0 | 1 | 6.33 | 6.75 | 13,999 |
| Nebraska | L | L | 1971 | 49 | 49 | 0 | 1 | 1.4 | 1.1 | 30,290 |
| Nevada | L | L | 1973 | 20 | 10 | 3 | 7 | 7.7 | 9.6 | 21,137 |
| New Hampshire | L | L | 1972 | 24 | 24 | 0 | 1 | 3.35 | 4.0 | 30,151(f) |
| New Jersey | B | B, SC | 1973 | 40 | 40 | 0 | 1 | 2.85 | 1.49 | 179,278 |
| New Mexico | L | L, SC | 1972 | 42 | 42 | 0 | 1 | 4.85 | 4.48 | 24,190 |
| New York | L | L | 1971 | 60 | 60 | 0 | 1 | 0.9 | 0.9 | 303,021 |
| North Carolina | L | L | 1971 | 50 | 27 | 18 | 4 | 6.10 | 6.89 | 101,641 |
| North Dakota | L | FC | 1975 | 50 | 49 | 1 | 2 | 3.16 | 3.1 | 12,355 |
| Ohio | B | B | 1971 | 33 | 33 | 0 | 1 | 1.05 | 0.95 | 322,788 |
| Oklahoma | L(c) | L | 1971 | 48 | 48 | 0 | 1 | 0.5 | 0.5 | 53,317 |
| Oregon | L(c) | S, SC | 1971 | 30 | 30 | 0 | 1 | 1.2 | 0.7 | 69,713 |
| Pennsylvania | B | B | 1971 | 50 | 50 | 0 | 1 | 2.29 | 0.03 | 235,949 |
| Rhode Island | L | L | 1974 | 50 | 50 | 0 | 1 | 15.0 | 0.0 | 17,800 |
| South Carolina | L | L | 1972 | 46 | 16 | 13 | 5 | 3.18 | 6.75 | 56,316 |
| South Dakota | L(c) | L | 1971 | 35 | 28 | 3 | 5 | 2.4 | 3.3 | 19,015 |
| Tennessee | L | L | 1973 | 33 | 33 | 0 | 1 | 7.1 | 7.4 | 118,914 |
| Texas | L(c) | B | 1971 | 31 | 31 | 0 | 1 | 2.3 | 2.2 | 361,185 |
| Utah | L | L | 1972 | 29 | 29 | 0 | 1 | 4.64 | 6.38 | 36,527 |
| Vermont | L(c) | L | 1973 | 30 | 13 | 11 | 6 | 8.17 | 8.48 | 14,824 |
| Virginia | L | FC | 1971 | 40 | 38 | 1 | 3 | 5.2 | 4.5 | 116,212 |
| Washington | L | FC | 1972 | 49 | 49 | 0 | 1 | 0.91 | 0.7 | 68,428(f) |
| West Virginia | L | L | 1973 | 34 | 17 | 17 | 2 | 11.1 | 11.1 | 57,302 |
| Wisconsin | L | L | 1972 | 33 | 33 | 0 | 1 | 0.71 | 0.55 | 131,877 |
| Wyoming | L | L | 1971 | 30 | 16 | 9 | 5 | 27.9 | 21.6 | 11,080 |
| Virgin Islands | L | L | 1972 | 15 | 3 | 2 | 7 | N.A. | N.A. | 4,461 |

*Source: The Book of the States, 1976–77*, p. 42, with updated information.

Abbreviations: B—Board or Commission; FC—Federal Court; SC—State Court; G—Governor; L—Legislature; S—Secretary of State; N.A.—Not available.

(a) Population figures in most instances are based on the 1970 federal census. West Virginia population figures valid at time of last legislative apportionment.

(b) Effective 1976 election.

(c) Constitution or statutes provide for another agent or agency to reapportion if the Legislature is unable to do so.

(d) Average number of registered voters per seat.

(e) Based on 1971 special State Decennial Census of state citizens.

(f) Based on civilian or nonstudent population.

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Note: As a result of a law enacted since this Table was prepared, the Massachusetts Senate has percentage population deviations of +2.86% and -3.36%. The average population for each seat is 144,737.

## TABLE IV:

## APPORTIONMENT OF LEGISLATURES: HOUSE

| State or other jurisdiction | Initial reapportioning agency | Present apportionment by | Year of most recent apportionment | Number of seats | Number of districts | Number of multi-member districts | Largest number of seats in district | Percent deviation in actual v. average population per seat: Greatest + | Greatest − | Average population each seat (a) |
|---|---|---|---|---|---|---|---|---|---|---|
| Alabama | L | FC | 1972 | 105 | 105 | 0 | 1 | 1.08 | 1.15 | 32,802 |
| Alaska | G, B | SC | 1974 | 40 | 22 | 10 | 6 | 14.0 | 15.0 | 7,559 |
| Arizona | L | L | 1972(b) | 60 | 30 | 30 | 2 | 0.4 | 0.4 | 29,541 |
| Arkansas | B | B | 1971 | 100 | 84 | 10 | 3 | 6.3 | 3.1 | 19,233 |
| California | L | SC | 1973 | 80 | 80 | 0 | 1 | 1.94 | 1.90 | 249,661 |
| Colorado | L | L | 1972 | 65 | 65 | 0 | 1 | 0.97 | 1.09 | 33,993 |
| Connecticut | L(c) | B | 1971 | 151 | 151 | 0 | 1 | 1.0 | 1.0 | 20,081 |
| Delaware | L | L | 1971 | 41 | 41 | 0 | 1 | 2.6 | 2.3 | 13,368 |
| Florida | L(c) | L | 1972 | 120 | 45 | 24 | 6 | 0.2 | 0.1 | 56,591 |
| Georgia | L | L | 1974 | 180 | 154 | 17 | 4 | 4.87 | 4.79 | 25,502 |
| Hawaii | B | B | 1973 | 51 | 27 | 22 | 3 | 8.2 | 21.0 | 6,624(d) |
| Idaho | L | L | 1971 | 70 | 35 | 35 | 2 | 5.45 | 5.03 | 10,186 |
| Illinois | L(c) | L | 1973 | 177 | 59 | 59 | 3 | 0.8 | 0.6 | 62,791 |
| Indiana | L | L | 1972 | 100 | 73 | 20 | 3 | 1.0 | 1.0 | 51,946 |
| Iowa | L(c) | SC | 1972 | 100 | 100 | 0 | 1 | 0.0 | 0.0 | 28,253 |
| Kansas | L | L | 1973 | 125 | 125 | 0 | 1 | 6.5 | 4.8 | 18,223 |
| Kentucky | L | L | 1972 | 100 | 100 | 0 | 1 | 3.1 | 3.9 | 32,193 |
| Louisiana | L | FC, L | 1972 | 105 | 105 | 0 | 1 | 4.6 | 4.6 | 34,697 |
| Maine | L(c) | SC | 1974 | 151 | 119 | 11 | 10 | 5.0(e) | 5.0(e) | 6,581 |
| Maryland | G | SC | 1974 | 141 | 47 | 47 | 3 | 5.3 | 4.7 | 27,818 |
| Massachusetts | L | L | 1973 | 240 | 240 | 0 | 1 | 9.94 | 9.06(f) | 23,232(g) |
| Michigan | B | SC | 1972 | 110 | 110 | 0 | 1 | 0.0 | 0.0 | 80,751 |
| Minnesota | L | FC | 1972 | 134 | 134 | 0 | 1 | 1.99 | 1.97 | 28,404 |
| Mississippi | L | FC | 1975 | 122 | 84 | 27 | 4 | 1.06 | 0.93 | 18,171 |
| Missouri | B | SC | 1971 | 163 | 163 | 0 | 1 | 1.2 | 1.3 | 28,696 |
| Montana | B | B | 1974 | 100 | 100 | 0 | 1 | 7.83 | 7.65 | 6,944 |
| Nebraska | Unicameral Legislature | | | ... | ... | ... | ... | ... | ... | ... |
| Nevada | L | L | 1973 | 40 | 40 | 0 | 1 | 10.9 | 12.1 | 12,218 |
| New Hampshire | L | L | 1971 | 400 | 159 | 109 | 11 | 25.3 | 19.3 | 1,813(h) |
| New Jersey | B | B, SC | 1973 | 80 | 40 | 40 | 2 | 2.85 | 1.39 | 89,639 |
| New Mexico | L | L, SC | 1972 | 70 | 70 | 0 | 1 | 4.92 | 4.95 | 14,514 |
| New York | L | L | 1971 | 150 | 150 | 0 | 1 | 1.8 | 1.6 | 121,608 |
| North Carolina | L | L | 1971 | 120 | 45 | 35 | 8 | 8.2 | 10.2 | 42,350 |
| North Dakota | L | FC | 1975 | 100 | 49 | 49 | 4 | 3.16 | 3.1 | 6,178 |
| Ohio | B | B | 1971 | 99 | 99 | 0 | 1 | 1.05 | 0.95 | 107,596 |
| Oklahoma | L(c) | L | 1971 | 101 | 101 | 0 | 1 | 1.0 | 1.2 | 25,338 |
| Oregon | L(c) | S, SC | 1971 | 60 | 60 | 0 | 1 | 1.33 | 0.88 | 31,856 |
| Pennsylvania | B | B | 1971 | 203 | 203 | 0 | 1 | 2.98 | 0.04 | 58,115 |
| Rhode Island | L | L | 1974 | 100 | 100 | 0 | 1 | 17.0 | 0.0 | 8,900 |
| South Carolina | L | L | 1974 | 124 | 124 | 0 | 1 | 4.98 | 4.97 | 20,819 |
| South Dakota | L(c) | L | 1971 | 70 | 28 | 28 | 10 | 2.4 | 3.3 | 9,518 |
| Tennessee | L | L | 1973 | 99 | 99 | 0 | 1 | 2.0 | 1.6 | 39,638 |
| Texas | L(c) | L | 1975 | 150 | 150 | 0 | 1 | 5.8 | 4.7 | 74,045 |
| Utah | L | L | 1972 | 75 | 75 | 0 | 1 | 6.72 | 5.95 | 14,124 |
| Vermont | L(c) | L | 1974 | 150 | 72 | 39 | 15 | 10.58 | 9.36 | 1,820(d) |
| Virginia | L | L | 1972 | 100 | 52 | 28 | 7 | 9.6 | 6.8 | 46,485 |
| Washington | L | FC | 1972 | 98 | 49 | 49 | 2 | 0.91 | 0.7 | 31,214(h) |
| West Virginia | L | L | 1973 | 100 | 36 | 25 | 13 | 8.17 | 8.01 | 17,432 |
| Wisconsin | L | L | 1972 | 99 | 99 | 0 | 1 | 0.96 | 0.93 | 44,626 |
| Wyoming | L | L | 1971 | 62 | 23 | 12 | 11 | 41.16 | 45.47 | 5,362 |
| Virgin Islands | Unicameral Legislature | | | ... | ... | ... | ... | ... | ... | ... |

*Source: The Book of the States, 1976-77*, p. 43, with updated information.

Abbreviations: B—Board or Commission; FC—Federal Court; SC—State Court; G—Governor; L—Legislature; S—Secretary of State.

(a) Population figures in most instances are based on the 1970 federal census.

(b) Effective 1976 election.

(c) Constitution or statutes provide for another agent or agency to reapportion if the Legislature is unable to do so.

(d) Average number of registered voters per seat.

(e) Approximate. No exact figures were available.

(f) This figure excludes two geographical island districts whose deviations are −7.15 and −81.77.

(g) Based on 1971 special State Decennial Census of state citizens.

(h) Based on civilian or nonstudent population.

This table is reprinted from page 5 of *American State Legislatures: Their Structures and Procedures* (Revised 1977) with the permission of the Council of State Governments.

Note: As a result of a recent constitutional amendment and a reapportionment law enacted since this Table was prepared, the Massachusetts House has 160 single-member districts with an average population for each seat of 36,164. The percentage population deviations range from +9.5% to -10.24%.

## TABLE V:

## CONGRESSIONAL DISTRICTS

| State | Initial Redistricting by | Present Redistricting by | Year of Most Recent Districting | Number of Districts | Maximum Percent Deviations from Average Population | Average Population Per District |
|---|---|---|---|---|---|---|
| Alabama | L | L | 1972 | 7 | +.32% -.46% | 492,024 |
| Alaska | (One Member elected at-large) | | | | | |
| Arizona | L | L | 1971 | 4 | +.1% -.12% | 443,121 |
| Arkansas | L | L | 1971 | 4 | +.07% -.19% | 480,824 |
| California | L | SC | 1973 | 43 | +.55% -.39% | 464,442 |
| Colorado | L | L | 1972 | 5 | +.17% -.47% | 411,452 |
| Connecticut | L | FC | 1972 | 6 | +.02% -.02% | 505,370 |
| Delaware | (One Member elected at-large) | | | | | |
| Florida | L | L | 1972 | 15 | +.09% -.19% | 452,630 |
| Georgia | L | L | 1972 | 10 | +.41% -.69% | 458,956 |
| Hawaii | L | L | 1969 | 2 | +5.9% -5.9% | 384,957 |
| Idaho | L | L | 1971 | 2 | +.10% -.10% | 356,504 |
| Illinois | L | FC | 1971 | 24 | +.63% -.69% | 463,082 |
| Indiana | L | L | 1971 | 11 | +.11% -.12% | 472,152 |
| Iowa | L | L | 1971 | 6 | +.23% -.42% | 470,840 |
| Kansas | L | L | 1971 | 5 | +.94% -.62% | 449,814 |
| Kentucky* | L | L | 1972 | 7 | +.11% -.09% | 460,102 |
| Louisiana** | L | L | 1972 | 8 | +.39% -.14% | 455,398 |
| Maine | L | L | 1961 | 2 | +.23% -.23% | 496,832 |
| Maryland | L | L | 1971 | 8 | +1.01% -1.55% | 490,300 |
| Massachusetts | L | L | 1971 | 12 | +.62% -.98% | 474,098 |
| Michigan | L | FC | 1972 | 19 | +.11% -.44% | 467,110 |
| Minnesota*** | L | L | 1971 | 8 | +.77% -.63% | 475,634 |
| Mississippi | L | L | 1972 | 5 | +1.94% -2.16% | 443,39[illegible] |
| Missouri | L | FC | 1972 | 10 | +.41% -.22% | 4[illegible],740 |
| Montana | L | L | 1971 | 2 | +.07% -.07% | 347,206 |
| Nebraska | L | L | 1971 | 3 | +.10% -.06% | 494,597 |
| Nevada | (One Member elected at-large) | | | | | |
| New Hampshire | L | L | 1972 | 2 | +.48% -.48% | 368,841 |
| New Jersey | L | FC | 1972 | 15 | +.44% -.64% | 477,878 |
| New Mexico | L | L | 1968 | 2 | +.62% -.62% | 508,000 |
| New York | L | L | 1974 | 39 | +1.60% -1.22% | 467,725 |
| North Carolina | L | L | 1971 | 11 | +2.12% -1.67% | 462,005 |
| North Dakota | (One Member elected at-large) | | | | | |
| Ohio | L | L | 1972 | 23 | +.31% -.19% | 463,131 |
| Oklahoma | L | L | 1972 | 6 | +.21% -.22% | 426,542 |
| Oregon | L | L | 1971 | 4 | +.11% -.11% | 522,846 |
| Pennsylvania | L | L | 1972 | 25 | +1.39% -.84% | 471,756 |
| Rhode Island | L | L | 1972 | 2 | +.12% -.12% | 474,862 |
| South Carolina | L | L | 1971 | 6 | +3.36% -4.81% | 431,753 |
| South Dakota | L | L | 1971 | 2 | +.01% -.01% | 333,129 |
| Tennessee | L | L | 1972 | 8 | +4.58% -3.71% | 490,521 |
| Texas | L | L | 1975 | 24 | +.09% -.06% | 466,330 |
| Utah | L | L | 1971 | 2 | +.01% -.01% | 529,637 |
| Vermont | (One Member elected at-large) | | | | | |
| Virginia | L | L | 1972 | 10 | +.24% -.44% | 464,849 |
| Washington | L | FC | 1972 | 7 | +6.77 -1.78% | 487,024 |
| West Virginia | L | L | 1971 | 4 | +.35% -.43% | 436,059 |
| Wisconsin | L | L | 1971 | 9 | +.03% -.04% | 490,881 |
| Wyoming | (One Member elected at-large) | | | | | |

KEY: L – Legislature, FC – Federal Court, SC – State Court.

*Information provided by the Kentucky Legislative Research Commission.

**The Louisiana Department of Justice reports maximum deviations different from those reported by CQ (+.19% and -.13%)

***The Minnesota Secretary of State reports maximum deviations different from those reported by CQ (+.90% and -.57%)

This table was prepared by Common Cause from information in *Congressional Districts in the 1970's* (2nd Ed., 1974) (published by *Congressional Quarterly*).

# Political Gerrymandering

The U.S. Supreme Court has taken us a substantial way toward its aim of "fair and effective representation for all citizens." The Court's "one person, one vote" standard has done away with the gross malapportionment of the pre-*Baker* years. But the substantial population equality required by the Court is not a total answer to the representation question. The Court has not guaranteed fair district lines. According to William J.D. Boyd of the National Municipal League:

> The reapportionment revolution has certainly come a long way, and very effectively eliminated the evil of malapportionment. As with most revolutions, it remains incomplete so long as the political gerrymander remains to effectively dilute the basic principles of a representative democracy.

The problem of political gerrymandering has replaced population inequality as the major obstacle to "fair and effective representation." Gerrymandering has been defined by Professor Robert Dixon, one of the nation's foremost experts on reapportionment, as "discriminatory districting which operates to inflate unduly the political strength of one group and deflate that of another." It is usually, but not exclusively, manifested in the manipulation of the shape of legislative districts. Political gerrymandering is a political tool that has a long history in American politics. The gerrymander was named after Elbridge Gerry, Governor of Massachusetts in 1812 when the legislature created a peculiar salamander-shaped district to benefit Gerry's Democratic Party (see "The Original Gerrymander" on page 16). It lives on today. In 1971, University of California Professor Gordon E. Baker surveyed the reapportionment plans drawn for California and concluded:

> While population variances among districts were negligible, several resulting configurations appear to be prime candidates for the Elbridge Gerry Memorial Award for Creative Cartography. Indeed, comparatively speaking, the early Massachusetts governor was a rank amateur and his famed salamander-like district a model of compactness.

Political gerrymandering is generally an attempt by incumbent legislators and majority parties in legislatures to draw district lines that perpetuate their positions of power within the status quo. It often results from the conflict of interest of having district lines drawn by state legislators. Few issues are of as intense interest to legislators as reapportionment. The drawing of district lines can make or break the political careers of the incumbent legislators who are charged with drawing the lines in most states. All too often, incumbents give in to the pressure to manipulate district lines for personal or partisan benefit. As the Majority Leader of the Maryland Senate has quipped: "There are two things that excite the Senate, reapportionment and horse racing."

Political gerrymandering is usually done by the majority party in the legislature working with statistics of past voting behavior, party registration, and demographic information. The intent is to create districts designed to produce the greatest number of legislative victories for the majority party by wasting minority party votes. As a New York politico discussing an upcoming reapportionment once said: "Now it's just a question of slicing the salami, and the salami happens to be in our hands."

One gerrymandering technique is to concentrate minority party strength in as few districts as possible, conceding these districts to the minority by wide margins in order to prevent the minority party from competing in other districts. For example, the majority party would concede one district to the minority in order to win three others. Another technique is to diffuse minority party strength in order to make it difficult for the minority party to win the number of seats representative of its popular support. In Illinois in 1973, for example, the General Assembly crossed the city line of Chicago nine times in drawing state legislative lines. The purpose and effect of this gerrymandering were to waste suburban Republican votes and to increase the number of city Democrats in the state legislature. In a 1972 study published by the American Enterprise Institute, Terry B. O'Rourke compared the ratio of votes won to seats won in the 1966-70 Congressional elections by parties with and

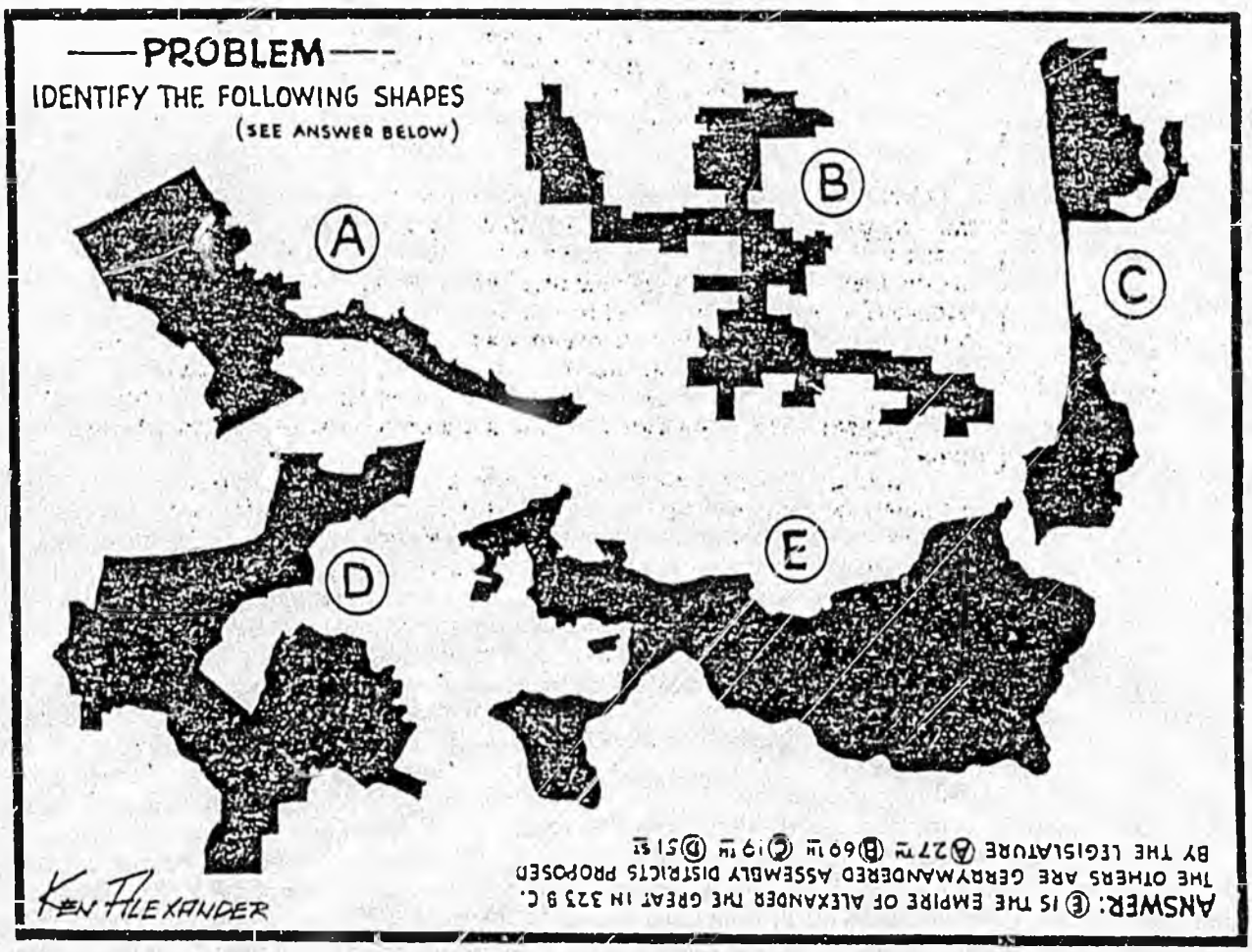
without the power to draw district lines. O'Rourke found that "parties with reapportionment power used it to enormous advantage."

The majority party in the legislature does not always undertake affirmative action to undermine the representation of the minority party. Sometimes the majority party will cut a deal with the minority to protect incumbents of both parties. Bipartisan gerrymandering seeks to increase the strength of the incumbent or the majority party in each district. Yale Professor Edward R. Tufte has found that:

> . . . a major element in the job security of incumbents is their ability to exert significant control over the drawing of district boundaries; indeed, some recent redistricting laws have been described as the Incumbent Survival Acts of 1972. It is hardly surprising that legislators, like businessmen, collaborate with their nominal adversaries to eliminate dangerous competition.

Thus, even where apportionment plans are drawn by bipartisan legislatures, gerrymandering can be used to preserve the domination of incumbents and undermine competition.

Political gerrymandering is often a weapon in intra-party disputes. Legislative leaders have used their authority over reapportionment to win support for their legislative proposals and to punish their political opponents. In the 1971 session of the Texas legislature, Texas House Speaker Gus Mutscher's absolute control of the House was threatened by a group of maverick representatives who came to be known as the Dirty Thirty. Mutscher used the redistricting plan as his vehicle for revenge. According to one observer:




Reprinted from the June 17, 1973 *San Francisco Chronicle & Examiner* with the permission of Ken Alexander.

> On May 28, 1971, three days before the end of the sixty-second session, Mutscher and his henchman Delwin Jones of Lubbock unveiled their House redistricting plan and placed it on a little easel near the front of the House chamber. One by one, the members gathered round. First came the gasps of horror, then the laughter, and finally the shaking of heads and little smiles. More than half of the Dirty Thirty had been placed in districts with each other and most of the others wound up in districts composed of voters clearly antagonistic to their political philosophies . . . [Mutscher went to great pains to put two young liberals in the same district.] The result resembles a fat chicken with Denton's house at the end of the beak and Moore's at the tip of the tail.
>
> (from Katz, *Shadow on the Alamo*)

When Chicago Mayor Richard Daley proposed a congressional districting plan designed to increase his already firm control over the Illinois delegation and remove a maverick Democrat from Congress, the *Chicago Daily News* saw the proposal as an assertion that "raw power can roll over the public interest by buying off the necessary votes in the Legislature with cynical political trades."

On the state level, political gerrymandering is often achieved by the establishment of multi-member rather than single-member legislative districts. The inevitable result of establishing multi-member districts—from which more than one legislator is elected—is to submerge the voting strength of ethnic or political party minorities. The U.S. Supreme Court has criticized multi-member districts but has not found them to be unconstitutional. In 1971, the Court rejected an argument that the use of multi-member districts in Indianapolis to limit black representation was unconstitutional.

## The Effects of Political Gerrymandering

Political gerrymandering—whether by the majority party or by both parties, whether the result of intra- or inter-party disputes—attempts to pre-determine electoral results. Competition is minimized. This undermines the system of competitive elections on which our representative democracy is based.

A Common Cause survey of state and congressional election results shows a shocking lack of competition in American electoral politics. We examined the proportion of incumbents in Congress and fourteen state legislatures who ran for renomination or re-election from 1968-1976 and won. The figures in Tables VI and VII on pages 17 and 18 show that incumbents who ran for re-election were re-elected at rates frequently in excess of ninety percent. Of the 69 state legislative elections reported in Table VII, the incumbent re-election rate dropped below eighty percent in only six. Four of these six came in the four elections held in Hawaii and Montana since the adoption of reapportionment plans through processes that meet the anti-gerrymandering test advocated by Common Cause.

As public opinion polls have demonstrated, this high rate of incumbent re-election can hardly be traced to public satisfaction with the performance of government. Rather, a lack of meaningful competition is the major factor. Clearly, the existing system of reapportionment—where incumbent legislators establish the electoral ground rules and stack them in their favor—is one of the reasons for this lack of competition. The present system of financing elections and the many perquisites of public office are others.

The lack of electoral competition that results from political gerrymandering undermines our system of representative democracy in several significant ways.

First, political gerrymandering dilutes the value of political participation. Where election results are largely pre-determined through political gerrymandering, the chance that a voter can influence an election through volunteer campaign activity or voting is diminished. Without competition, political issues need not be debated. Voters receive little meaningful information and have few real choices regarding candidates' positions on major issues.

Second, political gerrymandering makes legislators less responsive to the political interests of their entire constituency. Safe districts remove the incentive to grant political concessions to constituent interests within the district or to create electoral coalitions and ensure representation of diverse points of view.

Third, political gerrymandering weakens political parties by allowing them to field weak candidates. With safe districts, political parties have little incentive to find strong candidates. Their talents are not essential to victory. Instead, the majority party in each district may use the safe seat as a political reward for a party loyalist.

Racial minority groups have been special victims of gerrymandering. An eighteen month study of the operation of the Voting Rights Act by the United States Civil Rights Commission in 1969 concluded that gerrymandering was a prime weapon for discriminating against black voters. There is no doubt that political gerrymandering in general and the use of multi-member rather than single-member districts in particular has had and can continue to have the effect of denying representation to

## The Original Gerrymander . . .

The practice of "gerrymandering"—the excessive manipulation of the shape of a legislative district to benefit a certain incumbent or party—is probably as old as the Republic, but the name originated in 1812.

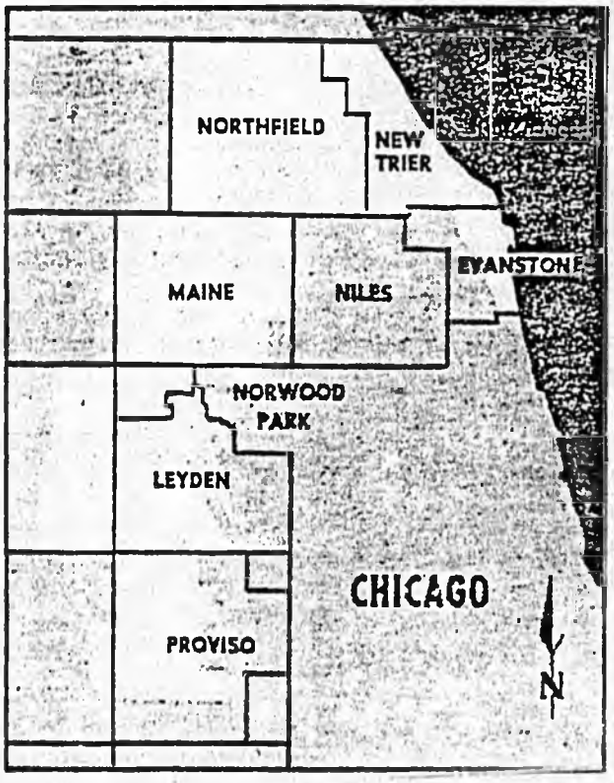
In that year, the Massachusetts Legislature carved out of Essex County a district which historian John Fiske said had a "dragonlike contour." When the painter Gilbert Stuart saw the misshapen district, he pencilled in a head, wings and claws and exclaimed: "That will do for a salamander!"—to which editor Benjamin Russell replied: "Better say a Gerrymander"—after Elbridge Gerry, then Governor of Massachusetts.




Reprinted from *Congressional Districts in the 1970s* (2nd Ed.) with the permission of *Congressional Quarterly*.

## . . . and the Daley Plan

The white portion of the map below was the 10th congressional district proposed by Chicago Mayor Richard J. Daley in 1975 in order to unseat the district's maverick incumbent, U.S. Representative Abner Mikva. Mikva commented: "That's not a map, that's a spaghetti." Notice that the Daley plan is quite similar to the original Gerrymander (at left).



## TABLE VI:

## RATE OF INCUMBENTS WHO RAN FOR RE-ELECTION AND WON IN 1968-76 FOR U.S. HOUSE OF REPRESENTATIVES

| State | 1968 | 1970 | 1972 | 1974 | 1976 |
|---|---|---|---|---|---|
| Alabama | 100% | 100% | 100% | 100% | 100% |
| Alaska | 100 | — | 100 | 100 | 100 |
| Arizona | 100 | 100 | 100 | 100 | 100 |
| Arkansas | 100 | 100 | 100 | 100 | 100 |
| California | 100 | 97 | 95 | 92 | 98 |
| Colorado | 100 | 75 | 50 | 80 | 100 |
| Connecticut | 82 | 100 | 83 | 100 | 100 |
| Delaware | 100 | — | 100 | 100 | — |
| Florida | 100 | 100 | 100 | 100 | 100 |
| Georgia | 100 | 100 | 89 | 80 | 100 |
| Hawaii | 100 | 100 | 100 | 100 | — |
| Idaho | 100 | 100 | 100 | 50 | 100 |
| Illinois | 100 | 100 | 95 | 90 | 96 |
| Indiana | 90 | 90 | 91 | 55 | 80 |
| Iowa | 100 | 100 | 71 | 50 | 83 |
| Kansas | 100 | 80 | 100 | 100 | 80 |
| Kentucky | 100 | 86 | 100 | 100 | 100 |
| Louisiana | 88 | 100 | 100 | 100 | 86 |
| Maine | 100 | 100 | 100 | 50 | 100 |
| Maryland | 85 | 66 | 100 | 100 | 100 |
| Massachusetts | 100 | 90 | 90 | 90 | 100 |
| Michigan | 100 | 100 | 95 | 94 | 93 |
| Minnesota | 100 | 86 | 100 | 100 | 100 |
| Mississippi | 100 | 100 | 100 | 100 | 100 |
| Missouri | 100 | 100 | 100 | 100 | 100 |
| Montana | 100 | 50 | 100 | 50 | 100 |
| Nebraska | 100 | 50 | 100 | 100 | 100 |
| Nevada | 100 | 100 | 0 | 0 | 100 |
| New Hampshire | 100 | 100 | 100 | 100 | 100 |
| New Jersey | 100 | 100 | 100 | 71 | 93 |
| New Mexico | 0 | 50 | 100 | 100 | 100 |
| New York | 94 | 87 | 94 | 88 | 100 |
| North Carolina | 100 | 100 | 100 | 82 | 100 |
| North Dakota | 100 | 100 | 100 | 100 | 100 |
| Ohio | 100 | 90 | 100 | 95 | 95 |
| Oklahoma | 100 | 100 | 100 | 80 | 100 |
| Oregon | 100 | 100 | 100 | 100 | 100 |
| Pennsylvania | 100 | 100 | 100 | 91 | 89 |
| Rhode Island | 100 | 100 | 100 | 100 | 100 |
| South Carolina | 100 | 83 | 83 | 75 | 100 |
| South Dakota | 100 | — | 100 | 50 | 100 |
| Tennessee | 100 | 100 | 88 | 75 | 100 |
| Texas | 100 | 100 | 86 | 97 | 96 |
| Utah | 100 | 100 | 50 | 100 | 50 |
| Vermont | 100 | 100 | 100 | — | 100 |
| Virginia | 100 | 100 | 100 | 80 | 100 |
| Washington | 100 | 86 | 100 | 100 | 100 |
| West Virginia | 100 | 100 | 100 | 100 | 75 |
| Wisconsin | 100 | 90 | 89 | 67 | 100 |
| Wyoming | 0 | — | 100 | 100 | 100 |
| TOTALS | 97% | 95% | 95% | 89% | 96% |

The information in this table represents the percentage of incumbent Members of the U.S. House of Representatives who ran for renomination or re-election and who won re-election. The table was prepared by Common Cause from information in *Congressional Quarterly*.

TABLE VII:

RATE OF INCUMBENTS WHO RAN FOR RE-ELECTION AND WON IN LEGISLATIVE ELECTIONS IN FOURTEEN STATES FOR 1968-76

| State | 1968 | 1970 | 1972 | 1974 | 1976 |
|---|---|---|---|---|---|
| Arizona | 90% | 83% | 92% | 86% | 84% |
| California | 96 | 94 | 95 | 90 | 94 |
| Delaware | 94 | 93 | 95 | 94 | 100 |
| Florida | 92 | 82 | 85 | 87 | 93 |
| Hawaii* | 94 | 91 | 91 | 77 | 78 |
| Idaho | 89 | 92 | 86 | 93 | 93 |
| Illinois | — | 97 | 93 | 89 | 94 |
| Michigan | 93 | 94 | 83 | 88 | 94 |
| Missouri | 89 | 88 | 77 | 86 | 89 |
| Montana** | 85 | 86 | 85 | 79 | 78 |
| Pennsylvania | 92 | 93 | 93 | 88 | 91 |
| South Dakota | 85 | 81 | 84 | 93 | 79 |
| Wisconsin | 92 | 92 | 93 | 89 | 95 |
| Wyoming | 83 | 91 | 83 | 92 | 88 |

*In 1973, Hawaii was reapportioned by a Legislative Reapportionment Commission pursuant to a new constitutional provision that established strict reapportionment standards.

**In 1974, Montana was reapportioned by a commission established pursuant to the 1972 Constitution.

The information in this table represents the percentage of incumbent legislators (House and Senate) who ran for renomination or re-election and who won re-election in fourteen states where election information and volunteer researchers were available. Assistant Professor Jerry W. Calvert of Montana State University provided the data for Idaho, Montana, South Dakota, and Wyoming. The Wisconsin Legislative Reference Bureau supplied the information for that state. The data for the other states were compiled by Common Cause volunteers from state election records.

minority groups. While blacks comprised 11.2 percent of the population in the 1970 census, only 287 of the approximately 7,500 state legislators—less than four percent—are black (see Table VIII). Only seventeen of 535 Members of Congress—just over three percent—are black.

## The Goals of Reapportionment Reform

In the 1960's, the goal of reapportionment reform was to establish legislative districts of substantially equal population. The goal now is to finish the reapportionment revolution by ridding the system of political gerrymandering in order to establish electoral fairness and increase electoral competition.

By minimizing electoral competition, unfair districting undermines the political process and weakens the political parties. Our political process needs competition in order to function as envisioned. Competition forces the political process to be responsive to new ideas and new people. Without competition, the parties lack the incentive to recruit or put forward their best candidates. Electoral competition is an essential factor in giving citizens a chance to have their ideas given serious consideration in legislative forums.

The purpose of political gerrymandering is to shut people out of the political process. Reapportionment reform is designed to benefit the public by broadening political participation and increasing electoral competition. Reapportionment reform is designed to strengthen the political process by providing an incentive for political parties to bring new ideas and new people into the process. By reforming the reapportionment process and improving state legislatures, states may increase public respect for state government and strengthen the role of state government in our federal system.

# The Common Cause Model Proposal

The Common Cause model proposes a reapportionment process designed to produce districts that are fairly drawn as well as districts of substantial population equality. Unlike district lines produced by political gerrymandering, fair district lines are not drawn to pre-determine election results. The model proposes a system of reapportionment that is equitable in its treatment of incumbent legislators, political parties, and others. This replaces the present system where people with political power are able to manipulate district lines for personal and partisan advantage.

The Common Cause model has three main elements—strict anti-gerrymandering standards; an independent, nonpartisan reapportionment commission; and prompt judicial review. All three elements of the model are crucial. They are designed to reinforce each other and to produce fairly drawn district lines. The reapportionment standards are designed to produce fair district lines by limiting the discretion of the commission to gerrymander for political or partisan purposes. The nonpartisan reapportionment commission replaces the legislature, providing much needed inde-

**TABLE VIII:**

BLACK STATE LEGISLATORS (1977)

| State | Number of Black Legislators | Percent of Total Legislators | Blacks as percent of State Population | State | Number of Black Legislators | Percent of Total Legislators | Blacks as percent of State Population |
|---|---|---|---|---|---|---|---|
| Alabama | 15 | 10.7 | 26.4 | Montana | 1 | 0.7 | 0.3 |
| Alaska | 0 | 0 | 3.0 | Nebraska | 1 | 2.0 | 2.7 |
| Arizona | 2 | 2 | 3.0 | Nevada | 3 | 5 | 5.7 |
| Arkansas | 4 | 2.9 | 18.6 | New Hampshire | 1 | 0.2 | 0.3 |
| California | 8 | 6.6 | 7.0 | New Jersey | 6 | 5 | 10.7 |
| Colorado | 3 | 3 | 3.0 | New Mexico | 1 | 0.9 | 1.9 |
| Connecticut | 5 | 2.6 | 6.0 | New York | 14 | 6.7 | 11.9 |
| Delaware | 3 | 4.8 | 14.3 | North Carolina | 6 | 3.5 | 22.4 |
| Florida | 3 | 1.9 | 15.5 | North Dakota | 0 | 0 | 0.4 |
| Georgia | 23 | 9.7 | 25.9 | Ohio | 11 | 8.3 | 9.1 |
| Hawaii | 0 | 0 | 1.0 | Oklahoma | 4 | 2.7 | 7.0 |
| Idaho | 0 | 0 | 0.3 | Oregon | 1 | 1.1 | 1.3 |
| Illinois | 20 | 8.4 | 12.8 | Pennsylvania | 13 | 5.1 | 8.6 |
| Indiana | 6 | 4 | 6.9 | Rhode Island | 2 | 1.3 | 2.7 |
| Iowa | 2 | 1.3 | 1.2 | South Carolina | 13 | 7.6 | 30.5 |
| Kansas | 6 | 3.6 | 4.8 | South Dakota | 0 | 0 | 0.2 |
| Kentucky | 3 | 2.1 | 7.5 | Tennessee | 11 | 8.3 | 16.1 |
| Louisiana | 10 | 6.9 | 29.9 | Texas | 13 | 7.2 | 12.7 |
| Maine | 1 | 0.5 | 0.3 | Utah | 0 | 0 | 0.6 |
| Maryland | 19 | 10.1 | 17.9 | Vermont | 0 | 0 | 0.2 |
| Massachusetts | 8 | 2.8 | 3.1 | Virginia | 2 | 1.4 | 18.6 |
| Michigan | 17 | 11.5 | 11.2 | Washington | 2 | 1.4 | 2.1 |
| Minnesota | 2 | 1.0 | 0.9 | West Virginia | 1 | 0.7 | 4.2 |
| Mississippi | 4 | 2.3 | 36.8 | Wisconsin | 3 | 2.3 | 2.9 |
| Missouri | 14 | 7.1 | 10.3 | Wyoming | 0 | 0 | 0.8 |
| | | | | TOTALS | 287 | 3.8 | 11.2 |

The number of black state legislators is from statistics compiled by the Joint Center for Political Studies in Washington, D.C. The percentage of blacks in each state population is taken from the 1970 federal census.

pendence. Fair district lines are more likely if district lines are drawn by persons not directly affected by them. Judicial review provides finality and acts as the final safeguard of the public's interest in fair and effective representation. A discussion of the three major elements of the model follows.

## I. REAPPORTIONMENT STANDARDS

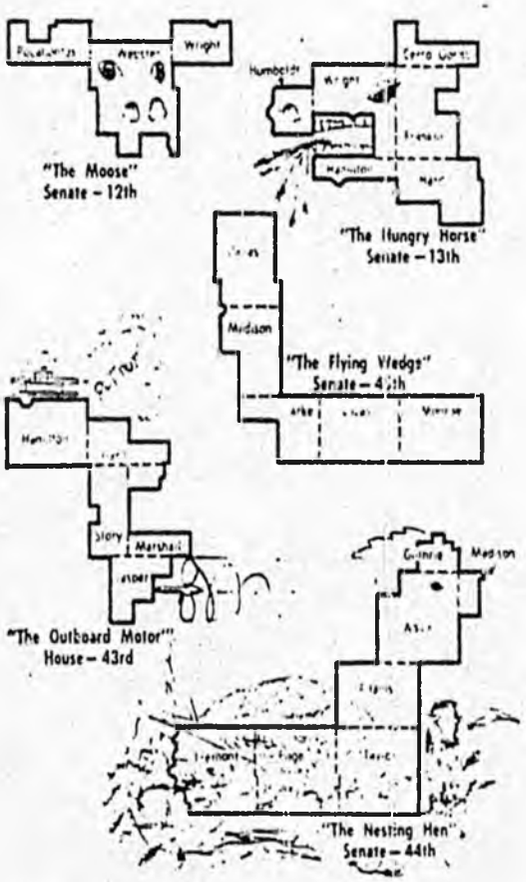
The most important element of reapportionment reform is the establishment of strict anti-gerrymandering standards. While an independent commission is more likely to produce fair district lines than a state legislature, strict reapportionment standards can virtually eliminate the potential to manipulate district lines for political or partisan advantage.

It is the absence of objective, judicially enforceable standards that has allowed the political gerrymandering that undermines our system of representative government. According to University of California reapportionment scholar Gordon E. Baker:

> If more specific guidelines to minimize gerrymandering are not forthcoming, then a great democratic principle—one man, one vote—will have degenerated into a simplistic arithmetical facade for discriminatory cartography on an extensive scale.

The model seeks to provide more specific definitions of reapportionment standards than are found in most state constitutions. This is done by providing population and compactness standards against which to judge reapportionment plans. A strong anti-gerrymandering provision is the centerpiece of the model proposal.

In *Reynolds*, the Supreme Court established the general rule that districts in each house have population "as nearly equal as is practicable." While the Court has discussed this requirement on numerous occasions, no precise definition has evolved. The model proposal attempts to establish specific population parameters




Wild and Wonderful Iowa Gerrymanders

DRAWING BY REGISTER STAFF ARTIST DAVID SILK

Reprinted from the January 25, 1972 *Des Moines Register and Tribune* with the permission of David Silk.

more rigorous than those allowed by the Court in some cases, while maintaining flexibility necessary to allow the commission to apply other reapportionment standards as well.

In addition to establishing specific population standards, the Common Cause model's reapportionment standards are designed to produce fair districts by minimizing the opportunity for political gerrymandering. Single-member districts—favored by the National Municipal League, Legis 50, and other reform minded organizations—are required. The model requires the commission to respect local political subdivision boundaries (for example, towns and counties) where consistent with the population standards. By respecting these boundaries, the model minimizes voter confusion, enables constituencies to organize for political action in an effective manner, and limits the ability to gerrymander. Compactness and contiguity are required and are defined in order to establish a basis for enforcement. A strong anti-gerrymandering provision adapted from the Hawaii Constitution is included. It provides that: "No district shall be drawn for the purpose of favoring any political party, incumbent legislator, or other person or group." To help enforce this provision, the commission is not allowed to take into account the addresses of incumbent legislators. The commission may not use the political affiliations of registered voters, previous election results, or demographic information other than population headcounts for the purpose of favoring any political party, incumbent legislator, or other person or group. This is precisely the information that has been used by partisans in the past to gerrymander. The model provides that no district may be drawn for the purpose of diluting the voting strength of any language or racial minority group.

## II. REAPPORTIONMENT COMMISSION

The National Municipal League has described the reapportionment process in most states as an "illogical system in which legislators are the judges and juries in a matter of highest importance to themselves." The conflict of interest of having state legislators draw state legislative district lines is obvious. As the Illinois legislator quoted above pointed out: "Any man who doesn't fight for his own district is a particular damn fool." A state legislator can also have a conflict of interest in preparing a congressional district plan. In addition to the fact that some legislators might want to run for Congress, a candidate for re-election to the state legislature can benefit from an unbeatable congressional candidate at the top of the party ticket.

Independence and accountability are key aspects of reform. It is essential that the responsibility for drawing legislative districts be taken from those most directly affected. The model proposes establishment of an independent, nonpartisan commission to prepare reapportionment plans. The model is drawn largely from the successful commission established in the Montana Constitution of 1972. As in the Montana Constitution, the model is not designed to deny the legislature any interest in reapportionment but rather to buffer the process from the most direct and personal conflicts of interest. Four of the five members of the commission are appointed by the legislative leaders of the major parties. The fifth is chosen by the other four. Reapportionment scholars Gordon E. Baker and Robert G. Dixon recommend similar bipartisan commissions with tie breakers. As in the Michigan, Montana, and Vermont Constitutions, the model prohibits public officials from serving on the commission. State commissions made up entirely of public officials as in Arkansas or dominated by legislative leaders or their deputies as in Pennsylvania do not meet the standard of independence sought by advocates of reapportionment reform. As in Hawaii, Michigan, and Missouri, the model prohibits commissioners from running for legislative office for a period after service on the commission in order to avoid self-dealing. The model contains numerous accountability provisions designed to ensure that the apportionment process is done by the commission in the open with a full public record and opportunity for public participation.

Few states used commissions before the reapportionment revolution of the 1960's, but they have become increasingly popular in recent years. As noted above, seventeen states now provide for boards or commissions to play a role in the reapportionment process—either as the apportioning authority, as a backup to the legislature, or in an advisory role. There is no federal obstacle to shifting the function of drawing congressional districts from the legislature to a reapportionment commission.

Establishment of a reapportionment commission is designed primarily to remove the conflict of interest inherent in having legislators draw their own districts and to

eliminate the abuses that have resulted from this system. It also should save valuable legislative time and reduce reliance on the courts. The California Legislature, for example, dealt with apportionment in 1971, 1972, and again in 1973 at an estimated cost of over $1 million. In 1971, the Legislature had 26 full-time staff members working on apportionment. Ultimately, court-appointed special masters prepared the plan. In Montana in 1974, a commission prepared a plan at a cost of only $20,000. Extended and special sessions are frequently required when state legislatures try to reapportion. With most state legislatures still understaffed and restricted by state constitutional limitations on session time, the task of legislative reapportionment takes away from time that could be spent more profitably on substantive legislative matters.

The present method of reapportionment also ties up considerable court time. As noted above, sixteen existing state house apportionment plans and seventeen senate plans were court ordered. In virtually every state, apportionment plans have been challenged in court. Under the model, litigation should be less frequent because of the strong presumption of fairness that a plan developed by a nonpartisan commission would have. After evaluating the reapportionment experience of the 1970's, the Council of State Governments concluded that commissions "appear to have a better track record than Legislatures."

### MONTANA'S REAPPORTIONMENT COMMISSION

Our bipartisan reapportionment commission has become something of a model for other states. It did its work promptly and efficiently, for a total cost of less than $20,000. That is less than what it costs us to run this place for one day. And we have heard few voices raised to say the commission's districts were poorly drawn or unfair.

The real world alternative to our commission is not one of legislators surrendering the interests of their constituents to those with greater claim, every ten years.

The alternative to our commission is return either to judge-made reapportionment, or to the 1971 pattern of costly special sessions to handle this awkward problem.

To take this task back upon ourselves would not only be costly in time and money. It probably just wouldn't work. It would fail for the same reason it has failed elsewhere. Each of us considers himself elected to press the advantage of our own constituents, whatever that may mean for someone else's constituents. Why, in the crunch, should we as individual legislators be expected to do anything else? This is why legislative reapportionment of legislatures breaks down into push-and-shove and seldom manages the job to constitutional standards of fair representation.

Let's keep our reapportionment commission to do this awkward task promptly and inexpensively; let's save our costly and numbered days here for the kinds of things we manage to do passably well.

—Montana House Majority Leader
Peter M. Meloy, successfully arguing against
a proposal to repeal Montana's excellent
reapportionment commission, March of 1977

## III. JUDICIAL REVIEW

No matter how well the reapportionment process works, legal challenges are inevitable in a matter as politically significant as reapportionment. Prompt judicial review is an essential element of a reformed reapportionment process. It is extremely important that all challenges to reapportionment plans be resolved and plans finalized well in advance of state legislative and congressional elections.

Finality in reapportionment is a matter of such importance and sensitivity that it warrants the prompt attention of the highest court in each state. The model grants these courts original jurisdiction over reapportionment matters. Challenges must be filed soon after a plan is prepared and the courts are required to issue decisions within a time certain.

# Time To Act

While reapportionment will not take place until 1981, it is now time for the states to reform their reapportionment procedures so that the legal framework for the development of fair reapportionment plans is in place by 1981. In virtually every state, this will require voter approval of the model constitutional amendment—either proposed by the legislature or petitioned to the ballot by citizen initiative—by 1980.

Legislative resistance to the Common Cause model will be strong because it strikes at the heart of the incumbency protection system. But public support can be expected. Proponents of reform should have little trouble convincing the public of the merit of a proposal designed to strip the legislature of its ability to gerrymander for self-serving purposes. The Special Masters appointed by the California Supreme Court in 1973 to prepare a reapportionment plan found "widespread public cynicism" about the traditional method of having the state legislature redistrict itself.

The model proposal relies heavily on the Colorado, Hawaii, and Montana reapportionment procedures. The Hawaii and Montana processes were recommendations of constitutional conventions that received voter approval in 1968 and 1972, respectively. The Colorado process was the result of a citizen initiative approved by the voters in November of 1974 by a vote ratio of three to two.

By working with problem solving legislators or using the citizen initiative process where necessary and available, citizens can establish reapportionment procedures designed to ensure fair and effective representation for all citizens in the 1980's. This can complete the reapportionment revolution of the 1960's. No longer will incumbent legislators and majority parties be able to perpetuate their power by pre-determining election results through reapportionment. Establishment of fair district lines through an equitable reapportionment process will help to restore competition—the lifeblood of a democratic society—to our electoral process.

# SUMMARY OF COMMON CAUSE MODEL STATE REAPPORTIONMENT PROPOSAL

The Common Cause model state reapportionment proposal is in two parts—a model constitutional amendment and model act. Virtually all substantive law regarding state apportionment procedure is found in the constitutions of the states. In almost every state, a significant change in reapportionment procedures will require a constitutional amendment. The Common Cause model state constitutional amendment establishes the essential elements of reapportionment reform—strict anti-gerrymandering reapportionment standards, an independent commission to draw the lines, and prompt judicial review. The amendment is as brief as possible in keeping with the belief that a constitution should be flexible and should not be unduly burdened with detail. The model act implements the constitutional amendment, giving definition to some of the reapportionment standards and establishing the duties, powers, and method of appointment of the commission. The model act should be adopted contemporaneously with the constitutional amendment and made contingent upon voter approval of the amendment. Obviously, each state will need to adapt the model to take into account the particular circumstances of the state.

## CONSTITUTIONAL AMENDMENT

The model constitutional amendment provides for reapportionment of state legislative and congressional districts in 1981 and every tenth year after. Single-member districts are required.

The model constitutional amendment provides for the establishment of a five member reapportionment commission in 1980 and every tenth year after and at any other time of court ordered reapportionment. Four members of the commission are appointed by the legislative leaders—one each by the President of the Senate, the Speaker of the House, the Minority Leader of the Senate, and the Minority Leader of the House. The four members select a fifth member who serves as chair. None of the five members may be a public official. The model requires the legislature to provide by law for the qualifications, duties, and powers of commissioners, procedures for the selection of commissioners and filling of vacancies, and adequate funding for the commission.

The model provides that districts in each house shall have "population as nearly equal as is practicable" based on the federal census. Specific population parameters are established to give definition to the requirement of substantial population equality. For state legislative districts, the model provides that the average percentage deviation of all the districts of a house from the average population of all districts in that house shall not exceed one percent. No district shall have a population which varies from the average population of all districts unless necessary to comply with one of the other reapportionment standards. In no case shall a district have a deviation from the average of more than five percent. Thus, the maximum allowable deviation from the highest to the lowest populated district is ten percent. In the event of a court challenge, the commission has the burden of justifying any deviation.

For congressional districts, the model provides that the same standards shall be used as for state legislative districts except that no district shall have a population deviation of more than one percent from the average population of all districts.

The model constitutional amendment provides that district lines be drawn to coincide with the boundaries of political subdivisions (for example, towns and counties) to the extent consistent with the requirement of substantial population equality.

The model constitutional amendment requires districts to be "compact in form and composed of convenient contiguous territory." The amendment provides that the aggregate length of all district boundaries shall be as short as practicable consistent with the constitutional requirements of substantial population equality and maintenance of political subdivision boundaries. The model establishes a judicially enforceable compactness requirement by providing that in no case shall the aggregate length of the boundaries of all districts exceed by more than five percent the shortest possible aggregate length of all the districts under any other plan consistent with the population and political subdivision standards. The same compactness standard applies to district lines within local political subdivisions that have two or more complete districts.

The proposed amendment provides that: "No district shall be drawn for the purpose of favoring any political party, incumbent legislator, or other person or group." The model prohibits the commission from taking into account the addresses of incumbent legislators. The commission may not use the political affiliations of registered voters, previous election results, or demographic information other than

population headcounts for the purpose of favoring any political party, incumbent legislator, or other person or group. The model further provides that no district shall be drawn for the purpose of diluting the voting strength of any racial or language minority group.

In addition, the model authorizes the legislature to define by law these standards and to establish other standards not in conflict with the Constitution of the United States or of the state and designed to guarantee "fair and effective representation for all citizens."

The constitutional amendment provides that the state supreme court has original jurisdiction over apportionment matters. The model authorizes any registered voter to file a petition to challenge a reapportionment plan or to compel the commission or any person to perform duties required by the model. Challenges to an apportionment plan must be filed within forty-five days of adoption of a plan. The court must give apportionment matters precedence over all other matters and must render a decision within sixty days after a petition is filed. The court may declare a plan invalid in whole or in part and must order the commission to prepare a new plan.

The model constitutional amendment provides that reapportionment plans remain in effect for ten years unless invalidated or modified pursuant to court order. A plan shall not be subject to amendment, approval, or repeal by initiative, referendum, or act of the legislature.

## MODEL ACT

The model act provides for the timing of the selection of commissioners. By May 1, 1980 (and every tenth year after), notice must be given of the establishment of the commission. Not earlier than June 1 but not later than July 1, the four legislative leaders must select four commissioners. By August 1, the four commissioners must select a fifth commissioner to serve as chair. Vacancies are filled by the initial selecting authority.

The model act provides that commissioners must be registered voters of the state who may not: hold or have held public office within two years prior to selection; be a relative or an employee of a state legislator or U.S. Representative; or be or have been a registered lobbyist within two years prior to selection. Members and employees of the commission may not: hold or campaign for public or political party office; participate in or contribute to a state or federal campaign; hold a seat in the state legislature or U.S. House of Representatives for four years after the effective date of the plan; or lobby the state legislature or U.S. Congress for compensation for one year after the effective date of the plan.

The model act provides for a staff and budget for the commission and authorizes the commission to hire consultants, reimburse witnesses for their expenses, and borrow staff and other resources from other state agencies. The act prescribes the duties of the commission: promulgate rules and regulations; preserve information and make it available to the public; give notice of meetings; open meetings of three or more commissioners to the public; log contacts with persons outside the commission; and prepare a detailed report explaining each preliminary and final reapportionment plan. The act authorizes the commission to subpoena persons and materials and to administer oaths.

The model act provides for the timing of the development of the reapportionment plan. By May 1, 1981 (and every tenth year after), the commission must propose one or two preliminary plans for public comment. The chair may also propose a plan. By July 1, the commission must complete public hearings around the state on the preliminary plans. By August 1, the commission must adopt a final plan by vote of at least three members. The act provides for an extension of these time deadlines if the necessary census tabulations are not available by February 1. The commission is required to prepare a financial statement and compile and preserve an official record of its activities. The commission expires as soon as all legal challenges to its plan have been resolved, but the supreme court may reconstitute it to comply with a court order.

The model act repeats the standards established in the model constitutional amendment. The act defines the constitutional requirement that districts be of contiguous territory. It also establishes procedures for dividing political subdivisions where required. The model act provides for alignment of state legislative and congressional district boundaries where practicable.

The model act repeats the model constitutional amendment's provision for judicial review and authorizes the state supreme court to order the state to pay petitioners reasonable attorney fees and court costs where the court finds that a petition was filed with reasonable cause.

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Common Cause has prepared a report on state and congressional reapportionment that includes an annotated version of the model proposal and a detailed state-by-state survey of apportionment practices and recent activities. A copy of the full report—*Toward a System of 'Fair and Effective Representation': A Common Cause Report on State and Congressional Reapportionment*—is available at cost ($2) by writing:

Issue Mail
Common Cause
2030 M Street, N.W.
Washington, D.C. 20036

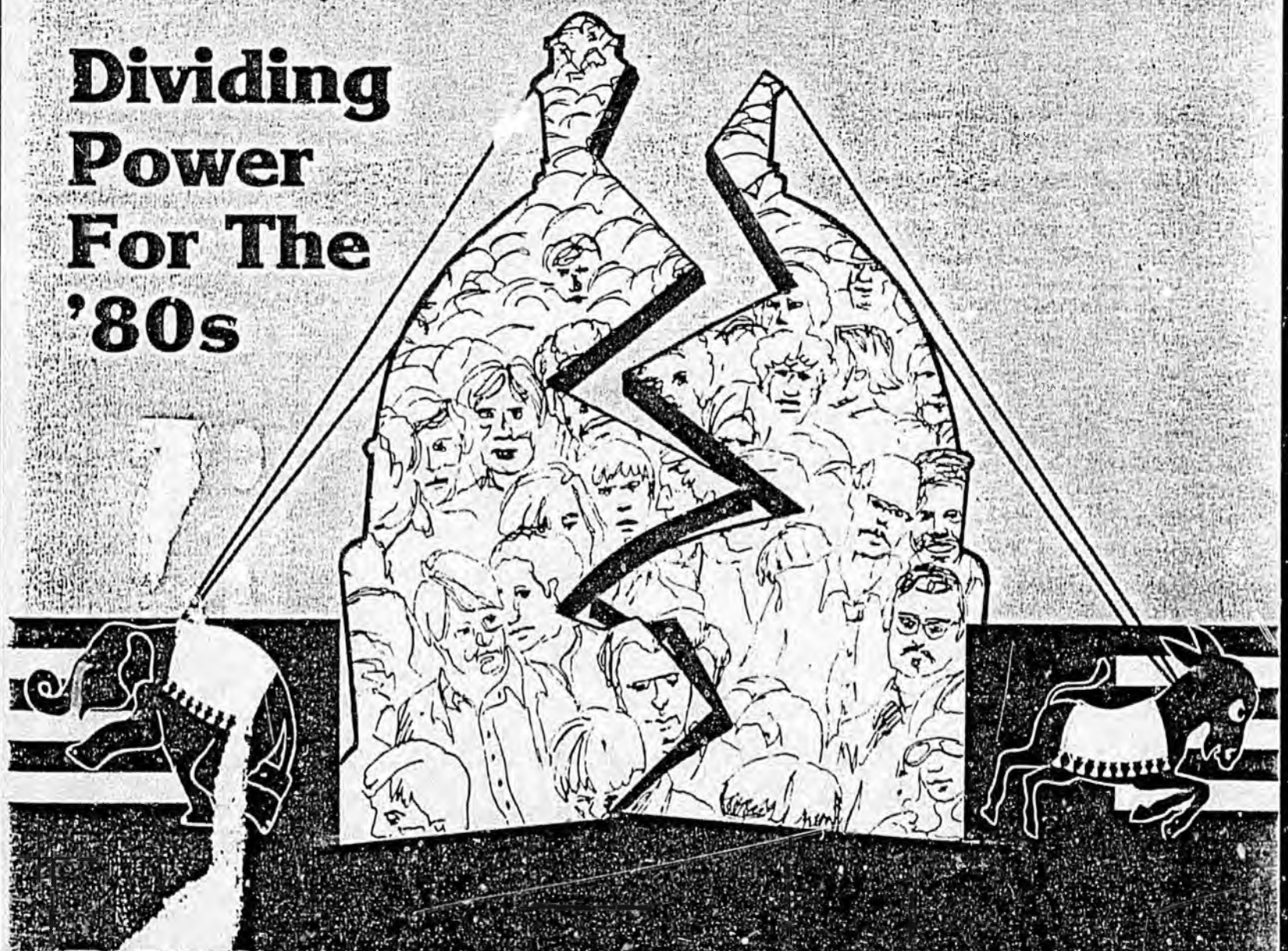
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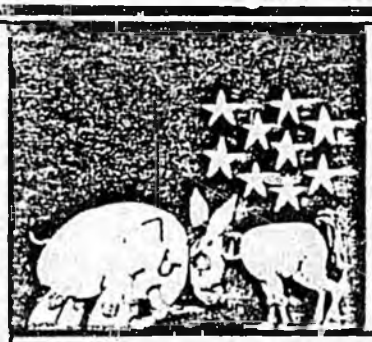
## Dividing Power For The '80s



**PLUS: Special Issue—CSG Annual Report**

# State Government News

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CSG ANNUAL REPORT




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## *FEATURE*


**Reapportionment—Dividing the Power** ..... 3
*Congressional district lines have been redrawn by 14 states so far, with another eight expected to act this year, while legislative redistricting plans have been adopted by 22 states. The politics and problems of the decennial process are explored by a CSG staff expert.*


## *DEPARTMENTS*


**Stated Briefly** ..... 5

**Council Close-Up; Calendar** ..... 7

**Regional Report; Legislative Session Dates** ..... 8
*Western governors heard from Interior Secretary James Watt.*

**Legislative Actions** ..... 9
*Reports on sessions in Iowa, Missouri, Texas, Kansas, North Carolina and Nebraska.*

**Professional Directory; Readers Service** ..... 12


## *SPECIAL FEATURE*


**CSG Annual Report, 1980-81** ..... A1-16
*State participation in CSG activities and services CSG provides states through its headquarters, regional and Washington offices are reviewed for the past year.*



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# Reapportionment—Dividing the Power

BY CAROLYN KENTON, CSG, Lexington

The decennial struggle for controlling political power and influence is in full swing. The process of recarving the political pie, which is called redistricting, was triggered by the 1980 census on the congressional and the state legislative levels.

### Congressional Redistricting

The political composition of Congress will be altered by the redistribution of seats among the states due to population shifts. In addition, it appears as though most states will have redrawn congressional district lines prior to the 1982 elections. Six states will have only one congressman and require no districting —Alaska, Delaware, North Dakota, South Dakota, Vermont and Wyoming. Another 14 states—Alabama, Arkansas, Idaho, Indiana, Iowa, Mississippi, Nebraska, Nevada, North Carolina, Oklahoma, Oregon, Tennessee, Texas and Virginia—have redrawn congressional district lines to conform to the 1980 census figures. Of the remaining 30 states, eight are expected to address the issue before the first of the year.

The standard for drawing congressional districts is simple and straightforward. The districts must be as nearly equal in population as possible. So far, the U.S. Supreme Court has not been willing to interject any other criterion except that imposed by the Voting Rights Act and the equal protection provisions of the 14th and 15th Amendments to the U.S. Constitution.

The new congressional districts appear to be satisfying the court's requirements for "one man, one vote." Eight of the 14 new congressional plans have an overall population difference between the largest and smallest district of less than 1 percent. The remaining six have a population difference of 2-3 percent or less.

### Gerrymandering Charged

The reliance on population equality gives redistricting cartographers leeway in drawing lines and leaves the door open to gerrymandering.

Partisan battles in the states have been intense. In states controlled by a single party—governor and legislature—the party out of power and some political observers have accused the controlling party of gerrymandering. Republican Gov. John Spellman of Washington considered the Republican-drawn plan so badly gerrymandered that he vetoed it. In Indiana, the legislature and governor apparently tried to change the congressional delegation from the present 6-5 Democratic edge to a 7-3 Republican edge (Indiana lost one congressman). To accomplish this, two existing Democratic districts were divided into four new ones and three Democratic congressmen were placed into one district.

States with divided political control—one or more houses of the legislature controlled by the opposition party—have also suffered problems. Democratic Gov. Richard Lamm of Colorado has vetoed two congressional plans drawn by the Republican legislature although the largest and smallest districts had a population difference of only 41 people in one plan.

The governors of Idaho, Oregon and Tennessee allowed the opposing legislative party's congressional plans to become law without their signatures.

Three states—Illinois, Minnesota and Missouri—have suits pending which would declare the existing congressional districts invalid, therefore requiring that they be redrawn before new elections could be held. These suits were filed after an apparent political impasse on the enactment of a plan developed by the parties in the legislature and/or the governor.

The majority of congressional districts will be redrawn through the normal legislative process. The exceptions are Hawaii and Montana, where commissions are responsible, and Connecticut, where a commission will be appointed to draw them because the legislature was unable to meet an Aug. 1 deadline. Plans will be prepared in Iowa by the Legislative Service Bureau and in Maryland by the governor, but the legislatures must still act on them. Generally speaking, however, congressional districts are much easier for state legislators to redraw than are legislative districts.

### Legislative Redistricting

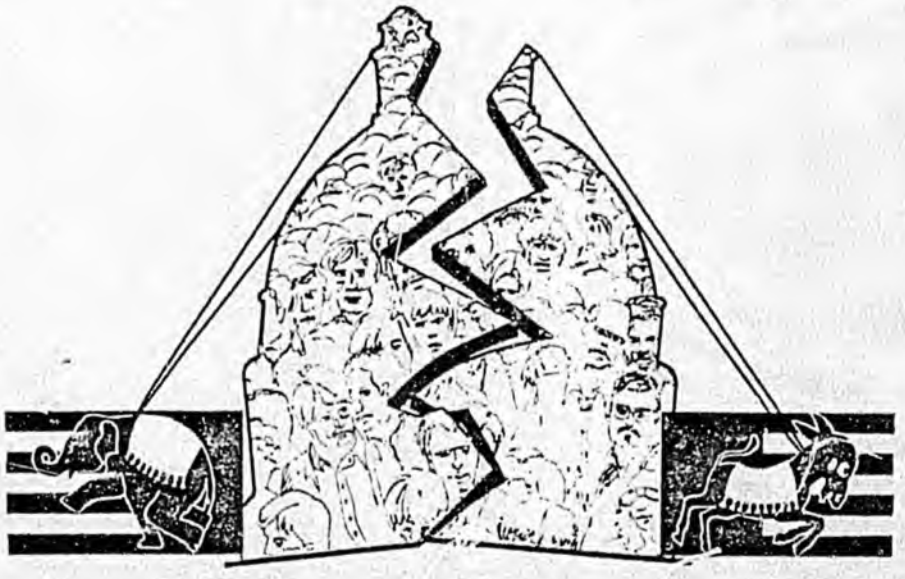
State legislatures have doggedly plunged ahead with their own redistricting. Redistricting is expected to be completed before the next legislative election in all states except Kansas, Kentucky, Maine, Massachusetts, Montana and New York. To date, 22 states have adopted a plan for one or both legislative houses.

The Texas and Virginia house plans have been ruled unconstitutional. The Texas Supreme Court ruled the house plan split counties unnecessarily in violation of the state constitution. The Texas plan will now be drawn by the Legislative Redistricting Board which will also draw the senate districts. In Virginia, a three-judge federal district court ruled the house plan invalid because of the large disparity—over 26 percent—between the largest and smallest districts. The court allowed the election for delegates to the house to proceed on schedule this fall, but shortened their terms to one year and required the legislature to redraw the house plan before Feb. 1982.

### State Legislative Criteria Differs

The rules governing legislative redistricting as set out by the U.S. Su-

(continued)



preme Court are more complex than those for congressional redistricting, and so are the redistricting mechanisms used by the states. Population equality, although important, is not the only consideration the states can use in drawing districts, and single-member districts are not required.

In addition, the states may choose to use less than the total U.S. census figures or not use the federal census figures at all. Kansas and Massachusetts use a state census as the basis for their redistricting, although Kansas plans to switch to the federal census in 1990. Hawaii uses registered voters, and Alaska has exempted transient military personnel from its population base.

States may choose other criteria such as maintaining political jurisdictional lines if they apply the policy uniformly and have a rational and justifiable reason, and if it does not violate the provisions of the Voting Rights Act.

Of the 39 new chamber redistricting plans—including Kansas and excluding the voided Texas and Virginia house plans—the overall population range between the largest and smallest district in 12 chambers is less than 5 percent. In another 19, the overall range is between 5 and 10 percent. One chamber has a range of 10 to 15 percent, and seven chamber plans have an overall range of over 15 percent between the largest and smallest district. The plans were drawn by the legislature in 17 states and by boards in the remaining four states.

The use of a board or commission to redistrict state legislatures has grown. Spurred by the efforts of such organizations as Common Cause, 15 states have a formal agency or advisory mechanism for redistricting. Another 11 states designate an agency to redistrict if the legislature fails to perform in a specified period of time. So far, this backup mechanism has been used by Connecticut for congressional districting and Illinois and Texas for legislative districting. In addition, petitions are circulating in South Dakota and Ohio for this fall's ballot to alter the apportionment process. The proposed constitutional

## 1981 REAPPORTIONMENT PLANS, MAXIMUM POPULATION DEVIATIONS

(CSG Reapportionment Service, September 1981)

| State or other jurisdiction | Senate: Percent deviation in actual vs. average population per seat — Greatest + | Senate: Greatest − | Senate: Average population each seat(a) | House: Percent deviation in actual vs. average population per seat — Greatest + | House: Greatest − | House: Average population each seat(a) | Congress: Percent deviation in actual vs. average population per seat — Greatest + | Congress: Greatest − | Congress: Average population each seat(a) |
|---|---|---|---|---|---|---|---|---|---|
| Alabama | ... | ... | ... | ... | ... | ... | 1.33 | 1.12 | 555,723 |
| Alaska | 5.80 | 3.97 | 18,456(b) | 5.81 | 4.18 | 9,228(b) | One Congressman | | 400,481 |
| Arkansas | 4.78 | 4.37 | 65,300 | 4.98 | 4.17 | 22,855 | 0.72 | 0.[illegible] | 571,378 |
| Connecticut | 2.40 | 1.52 | 86,322 | 4.42 | 3.92 | 20,580 | ... | ... | ... |
| Delaware | +/- 9.80 | | 28,344 | +/- 3.80 | | 14,518 | One Congressman | | 595,225 |
| Georgia | 4.99 | 5.00 | 97,576 | 4.95 | 4.97 | 30,357 | ... | ... | ... |
| Idaho | ... | ... | ... | ... | ... | ... | 0.02 | 0.02 | 471,968 |
| Indiana | 2.07 | 1.97 | 109,803 | 5.30 | 14.63 | 54,901 | 0.99 | 0.91 | 549,010 |
| Iowa | 0.32 | 0.39 | 58,268 | 0.99 | 0.79 | 29,134 | 0.03 | 0.02 | 485,564 |
| Kansas | 3.10 | 3.40 | 53,982(c) | 5.00 | 4.90 | 18,874(c) | ... | ... | ... |
| Mississippi | ... | ... | ... | ... | ... | ... | 0.02 | 0.02 | 509,128 |
| Nebraska | 4.76 | 4.67 | 32,041 | Unicameral | | | 0.08 | 0.15 | 523,33[illegible] |
| Nevada | 4.16 | 4.02 | 38,056 | 4.73 | 4.97 | 19,028 | > +/- 1.0 | | 399,592 |
| New Jersey | 5.13 | 2.57 | 184,104 | 5.13 | 2.57 | 184,104(d) | ... | ... | ... |
| North Carolina | 12.67 | 10.02 | 117,489 | 12.94 | 10.68 | 48,954 | 1.31 | 1.40 | 534,039 |
| North Dakota | ... | ... | ... | ... | ... | ... | One Congressman | | 652,695 |
| Oklahoma | 2.94 | 2.66 | 63,026 | 5.07 | 5.91 | 29,953 | 0.33 | 0.25 | 504,211(e) |
| Oregon | 2.62 | 1.11 | 87,700(f) | 2.75 | 2.59 | 43,600 | 0.08 | 0.03 | 526,533 |
| Pennsylvania | 1.04 | 0.95 | 237,334(g) | 1.27 | 1.13 | 58,456(g) | ... | ... | ... |
| South Carolina | ... | ... | ... | 4.95 | 4.86 | 25,155 | ... | ... | ... |
| South Dakota | 5.99 | 6.50 | 19,663(e) | 5.90 | 6.50 | 9,832(d,e,f) | One Congressman | | 690,178 |
| Tennessee | 0.73 | 0.93 | 139,114 | 1.42 | 1.72 | 46,371 | 1.29 | 1.14 | 510,083 |
| Texas | ... | ... | 458,908 | 4.82 | 4.60 | 94,856(h) | 0.16 | 0.12 | 526,977 |
| Vermont | ... | ... | ... | ... | ... | ... | One Congressman | | 511,456 |
| Virginia | 4.35 | 6.30 | 133,657 | 12.47 | 14.16 | 66,[illegible]43(h) | 0.79 | 1.02 | 534,628 |
| Washington | 2.40 | 2.10 | 84,289(f) | 2.40 | 2.10 | 84,289(f) | ... | ... | (f) |
| Wyoming | 39.50 | 24.20 | 15,694 | 29.10 | 60.30 | 7,357 | One Congressman | | 470,816 |

(a) Population figures in most instances are based on the 1980 federal census.

(b) Excludes transient military population.

(c) Legislative redistricting was based on state conducted census.

(d) More than one legislator runs for office from a senate district.

(e) A constitutional referendum petition is being circulated to invalidate the current plan. South Dakota: The referendum would create single-member senate districts with one senator and two house members elected from each district.

(f) Court suit filed challenging validity of existing or new plan.

(g) Preliminary plan. Pennsylvania: Challenges to the plan have been filed. Hearings were scheduled for September 24-25.

(h) This plan was declared unconstitutional.

## Reapportionment
(continued)

amendment in South Dakota would establish single-member senate districts and other criteria for redistricting.

Republicans are threatening to circulate legislative referendum petitions to repeal redistricting laws which they believe are unfair in Oklahoma (congressional) and California (legislative and congressional).

The state political stories of legislative and congressional redistricting will continue to unfold for at least the coming year. So far the courts have barely been involved, but they will undoubtedly make a contribution before the process is over.

CSG will continue to follow and report on state activities. More detailed information on individual plans or current activities can be obtained by contacting the Council's Reapportionment Information Service.

## Redistricting Snag Delays New York City Primary Election

The New York City primary was delayed in September when a federal court ruled the city had failed to comply with the federal Voting Rights Act in redrawing council district lines.

The court's action, which was upheld by the U.S. Supreme Court, held that the city had failed to obtain the necessary pre-clearance from the U.S. Justice Department for any changes in voting procedure. It did not go so far as to uphold the plaintiff's contention that the new district lines discriminated against minorities.

The city reached an agreement with the Justice Department to allow all but city council elections to be held Sept. 22.

## Suit Filed over Kentucky Education Budget Cuts

The Kentucky Education Association has filed suit asking that education spending cuts ordered by Gov. John Y. Brown Jr. be declared unconstitutional. The suit in circuit court charges that the legislature should decide on cuts and that the reductions are "inequitable, discriminatory, and arbitrary."

Gov. Brown ordered the cuts, rather than calling the legislature into special session. Recent reductions affecting education amount to more than $70 million.

# *Stated Briefly*

## Louisiana Transfers Local Prisoners

Louisiana Gov. David C. Treen has announced that eligible prisoners have been transferred from parish jails to the Department of Corrections as of Sept. 1. Reassessment of the state prisons resulted in room to house 1,348 more prisoners, an 18 percent increase, in fiscal 1981-82.

## Accounting Manual Offered by Iowa

The Iowa Department of Substance Abuse (IDSA) has developed a Project Level Accounting Manual which tells how to establish and maintain a basic bookkeeping system that meets audit requirements and how to provide separate accounting for various funding sources. It also provides management information. The manual is used by substance abuse programs within and outside of Iowa. Copies can be obtained for $12 from the IDSA, Suite 202, 505 Fifth Ave., Des Moines, Iowa 50319, or call Allen Vander Linden, (515) 281-3641.

## College Tuition Rates Rise

Average tuition rates at public four-year colleges and universities shot up 16 percent the past year, according to a survey by the College Board. The rise is the largest in a decade and does not reflect increases announced since May. Many schools have raised rates since then due to lower than anticipated appropriations from state legislatures. Average tuition rates are up 13 percent at private colleges.

## Costs to Be Shared in Three Mile Island Cleanup

Pennsylvania Gov. Dick Thornburgh's cost-sharing proposal for cleanup of the disabled Three Mile Island nuclear power plant won support recently. The Edison Electric Institute, an electric utilities' trade association, pledged its members to paying $192 million over six years.

The owners of the plant, General Public Utilities, have agreed to pay $335 million. The U.S. General Accounting Office in August recommended a national cost-sharing approach to Congress, but no federal action has been taken.

## Wisconsin Budget Increases Transit Aid

Wisconsin's 1981-83 budget, signed by Gov. Lee S. Dreyfus July 29, includes $58.6 million for urban mass transportation programs and ridesharing (S. 85-24). Beginning in 1982, state aid will be available to cover up to 30 percent of the total operating costs of the state's urban transit systems.

## Two States and U.S. Reach Desegregation Agreement for Colleges

Missouri and Louisiana have reached agreement with the U.S. Justice Department on plans to desegregate public colleges. A consent decree filed in federal court in New Orleans, if approved by the court, would end a lawsuit filed by the department in 1974.

## Legislators Hold Off on Funding Decision for Higher Education

A special session of the Texas Legislature has adjourned without resolving the controversy over the future of state construction funds for public higher education.

The lawmakers will watch for the results of a pending lawsuit to restore a state property tax of 10 cents per $100 valuation. The tax had provided funds for 17 colleges and universities. The House did pass a proposal to repeal the tax; the Senate voted for a new rate of 3 cents per $100.

## States' Tax Base Reflects Shifting Wealth

Alaska has the largest tax base per capita of the states—more than twice (213 percent) the nation's average.

The top five states in per capita tax wealth are Alaska, Wyoming (190 percent), Nevada (164 percent), Texas (121 percent) and California (116 percent), according to the Advisory Commission on Intergovernmental Relations' (ACIR) preliminary estimates of 1979 tax capacity. The estimates account for tax bases available to states including property, income, sales, motor fuels and the value of extracted natural resources.

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# Affiliated and Cooperating Organizations

The Articles of Organization of the Council of State Governments recognize two forms of association with the Council by groups of state officials—affiliated and cooperating. The Council presently recognizes 33 such groups—seven affiliated and 26 cooperating.

For organizations affiliated with the Council, the state services agency is authorized to provide financial assistance and secretariat and other staff services.

The seven affiliated organizations of the Council are the:

- National Conference of State Legislatures,
- Conference of Chief Justices,
- National Association of Attorneys General,
- National Conference of Lieutenant Governors,
- National Association of State Purchasing Officials,
- Conference of State Court Administrators, and
- National Association of State Auditors, Comptrollers and Treasurers.

The Council's Articles of Organization also permit its executive committee to recognize other groups and associations of state officials as cooperating organizations and maintain continuing cooperative arrangements with such organizations.

The cooperating organizations include the:

- National Conference of Commissioners on Uniform State Laws,
- Parole and Probation Compact Administrators' Association,
- Association of Juvenile Compact Administrators,
- Interstate Conference on Water Problems,
- National Association of State Mental Health Program Directors,
- Adjutants General Association of the United States,
- National Conference on Uniform Reciprocal Enforcement of Support,
- Association of State and Interstate Water Poilution Control Administrators,
- National Association of State Boating Law Administrators,
- National Association of State Civil Defense Directors,
- Association of State Correctional Administrators,
- National Association of State Units on Aging,
- National Association of Extradition Officials,
- National Association of State Juvenile Delinquency Program Administrators,
- State Personnel Administrators Association,
- Council of State Administrators of Vocational Rehabilitation,
- National Association for State Information Systems,
- National Association of Regulatory Utility Commissioners,
- Coastal States Organization,
- Federation of Tax Administrators,
- National Association of Tax Administrators,
- Conference of State Sanitary Engineers,
- National Conference of States on Building Codes and Standards,
- National Association of State Departments of Agriculture,
- National Conference of State Criminal Justice Planning Administrators, and
- National Conference of State General Services Officers.

California Reapportionment Proposal

ET

OFFICE OF THE GOVERNOR
Sacramento, Calif. 95814
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RELEASE: Immediate

#583

COUNCIL OF STATE GOVERNMENTS

A proposed legislative constitutional amendment to place the responsibility for reapportionment with a nonpartisan commission of eight state Court of Appeal justices was submitted today to the legislative counsel on behalf of Governor George Deukmejian.

The proposal will be introduced in the legislature in January and fulfills the governor's pledge to recommend a fair and nonpartisan mechanism for redrawing the state's congressional, state Senate, Assembly and Board of Equalization districts.

If approved, California would join 10 states where reapportionment is accomplished by commissions and not by legislative bodies directly affected by it. Jurists are utilized in several states in a backup role to break deadlocks.

If the legislature places the measure on the ballot and it is approved by California voters, the proposal calls for the independent commission---with the assistance of professional staff---to redraw district lines for the 1986 California elections.

Subsequent commissions would be impanelled each ten years to reapportion the state following the decennial federal census.

The constitutional amendment mandates the drawing of districts which provide fair representation for all Californians, including racial, ethnic and language minorities, and which promote meaningful political competition.

The commission would be compelled by the Constitution to create districts which are geographically compact, which minimize the division of cities and ~~counties~~ municipalities, boroughs, local neighborhoods, villages and which do not favor political parties or legislative incumbents.

The amendment calls for each state Senate district to be composed of two adjacent ~~Assembly~~ representative districts, ~~and for each Board of Equalization district to be composed of 10 state Senate districts~~. The districts are to be as equal in population as possible.

"In my judgment, the public is frustrated by a reapportionment process which has been motivated by ~~legislative~~ political party self-interest instead of by the demonstrated public desire for fair and competitive districts," the ~~governor~~ Martin said in a statement.

"The public legitimately expects the goal of reapportionment is not to assure that current political parties and office holders have safe seats for a decade," he said. "By taking redistricting out of the hands of the ~~legislature~~ State System and by asking it be accomplished by respected senior appellate justices, we will have assured the public that the process will be fair, nonpartisan, and as objective as possible."

Later today, the proposed constitutional amendment also will be submitted as a proposed initiative to the attorney general for preparation of title and summary.

NOV 21 1983
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The governor said he would prefer that the process be changed by action of the legislature, but in the event the legislature is not responsive an initiative campaign would be undertaken to permit a vote on putting in place the commission before the 1986 elections.

This is how it would work:

Twenty days following voter ratification of the amendment, the Judicial Council will provide to the Secretary of State the names of present state Court of Appeal justices with no previous legislative experience and who have served on the court for more than five years.

The names will be divided into two groups: those appointed by Democratic governors and those appointed by Republican governors.

The amendment directs the president of the University of California or his representative---under the supervision of the Secretary of State---to draw by lot four justices from each group. Additionally, one non-voting member each will be selected by the governor and by the highest ranking constitutional officer of the opposing party. The commission will have professional staff to assist in accomplishing its task in a timely manner.

The commission budget will not exceed one half of the amount spent by the legislature to draft the present legislative districts.

If any vacancy occurs among the voting members, the president of the University of California will be directed to draw a replacement justice by employing the same procedure.

The proposal calls for the commission to hold its initial meeting 20 days later and to select a chairman and vice chairman who were appointed to the judiciary by governors of opposing parties.

After completing an extensive public hearing process, the commission will utilize computers to redraw legislative districts that meet the criteria of the amendment.

Once approved by the commission, the redistricting program could not be amended or invalidated by the legislature. It would be subject to the referendum process and exclusive judicial review by the California Supreme Court.

However, if an impasse exists among the commissioners, the commission will draw by lot to disqualify one voting member in order to break the deadlock. If the impasse continues, another commissioner will be disqualified by lot two days later.

Commission members will receive no salary but will be compensated for necessary expenses.

GOVERNMENT PUBLICATIONS
NOV 21 1983
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"It is my hope that the legislature will respond positively to the will of the people who are irritated by the present process which too often rewards incumbency at the expense of fair representation and meaningful political competition," Deukmejian said.

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